

**SPECIFICATION and CONTRACT DOCUMENTS**

**FOR**

**2015 PAVEMENT RESURFACING  
PROJECT**



CITY OF MORGAN HILL

MORGAN HILL, CALIFORNIA  
PUBLIC WORKS DEPARTMENT

PREPARED BY

PUBLIC WORKS DEPARTMENT

MAY, 2015

## NOTICE INVITING BIDS

1. **Bid Information.** The City of Morgan Hill ("Owner"), will accept sealed bids for its 2015 Pavement Resurfacing Project ("Project"), by or before Thursday, June 4, 2015, at 2:30 p.m., at Morgan Hill City Hall, located at 17575 Peak Avenue, Morgan Hill, California, at which time the bids will be publicly opened and read aloud. Owner reserves the right to reject any and all bids and to waive any non-substantive irregularities.
2. **Project Information.** The project scope of work is described as follows: AC overlay, full depth AC pavement repair, paving mat, crack seal and replacement of all existing traffic delineation and all related work on various streets within the City. The planned timeframe for commencement and completion of construction of the Project is: 30 calendar days.
3. **License and Registration Requirements.**
  - 3.1 **License.** This Project requires a valid California contractor's license for the following classification(s): A-General Engineering Contractor or C12 - Earthwork and Paving Contractors.
  - 3.2 **DIR Registration.** Owner will not accept a Bid Proposal from or enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.
4. **Contract Documents.** The plans, specifications, bid and contract documents for the Project ("Contract Documents") may be obtained from the City of Morgan Hill, at 17575 Peak Avenue, Morgan Hill, CA, (408) 778-6480. **Contractors may obtain a copy of the Contract Documents for Twenty-Five Dollars (\$25) per set. A \$5 charge will be added for mailing by USPS. Electronic copies of the Contract Documents are available on CD for \$10.00. To download plans and specifications at no charge, register at [www.publicpurchase.com](http://www.publicpurchase.com).**
5. **Bid Proposal and Security.**
  - 5.1 **Bid Proposal Form.** Each bid must be submitted using the Bid Proposal form provided with the Contract Documents.

**5.2 Bid Security.** Each Bid Proposal must be accompanied by bid security of ten percent of the maximum bid amount, in the form of a cashier's or certified check made payable to City of Morgan Hill, or a bid bond executed by a surety licensed to do business in the State of California on the Bid Bond form included with the Contract Documents. The bid security must guarantee that upon award of the bid, the bidder will execute the Contract and submit payment and performance bonds and insurance certificates as required by the Contract Documents within ten days after issuance of the notice of award.

**6. Prevailing Wage Requirements.**

**6.1 General.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes.

**6.2 Rates.** These prevailing rates are available online at <http://www.dir.ca.gov/DLSR>. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to work on the Project. The schedule of per diem wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half.

**6.3 Compliance.** The Contract will be subject to compliance monitoring and enforcement by the California Department of Industrial Relations, under Labor Code Section 1771.4.

- 7. Performance and Payment Bonds.** The successful bidder will be required to provide performance and payment bonds for 100% of the Contract Price.
- 8. Substitution of Securities.** Substitution of appropriate securities in lieu of retention amounts from progress payments is permitted under Public Contract Code Section 22300.
- 9. Subcontractor List.** Each bidder must submit the name, location of the place of business, and California contractor license number of each Subcontractor who will perform work or service or fabricate or install work for the prime contractor in excess of one-half of 1% of the bid price, using the Subcontractor List form included with the Contract Documents.
- 10. No Bid Withdrawal.** No bid may be withdrawn for a period of 60 days after the deadline for bid submission, except for material error under Public Contract Code Sections 5100 et seq.

**11. Instructions for Bidders.** Additional and more detailed information is provided in the Instructions for Bidders, which should be carefully reviewed by all bidders before submitting a Bid Proposal.

By: \_\_\_\_\_ Date: \_\_\_\_\_

Publication Dates: 1) May 22, 2015 2) May 29, 2015

## INSTRUCTIONS FOR BIDDERS

Each Bid Proposal submitted to City of Morgan Hill (“Owner”) for its 2015 Pavement Resurfacing Project (“Project”) must be submitted in accordance with the following instructions and requirements:

- 1. Bid Submission.** Each bid (“Bid Proposal”) must be signed, sealed and submitted to the Owner, using the form provided in the Contract Documents, by or before the date and time set forth in the Notice Inviting Bids, or as amended by subsequent addendum. Faxed or emailed Bid Proposals will not be accepted, unless otherwise specified. Late submissions will be returned unopened. Owner reserves the right to postpone the date and time for receiving or opening bids. Each bidder is solely responsible for all of its costs to prepare and submit its bid and by submitting a bid waives any right to recover those costs from Owner. The bid price(s) must include all costs to perform the Work as specified, including all indirect costs such as applicable taxes, insurance and field offices. The envelope containing the sealed Bid Proposal and required attachments must be clearly labeled as follows: “Morgan Hill DSC Attention: Bid Opening/RFP,” followed by the Bid date and time.
- 2. Examination of Contract Documents and Project Site.** Each bidder is solely responsible for diligent and thorough review of the Contract Documents (as defined in the General Conditions), examination of Project site, and reasonable and prudent inquiry concerning known and potential site conditions prior to submitting a Bid Proposal. However, bidders should not enter onto Owner’s property or the Project site without prior written authorization from Owner. Bidders are responsible for reporting any errors or omissions in the Contract Documents to Owner prior to submitting a Bid Proposal, subject to the limitations of Public Contract Code Section 1104. Owner expressly disclaims responsibility for assumptions the bidder might draw from the presence or absence of information provided by Owner.
- 3. Requests for Information.** Questions regarding the Project, the bid procedures or any of the Contract Documents must be submitted in writing to the Project Engineer Scott Creer at 17575 Peak Avenue, Morgan Hill, CA 95037.
- 4. Addenda.** Any addenda issued prior to the bid opening shall constitute part of the Contract Documents. Subject to the limitations of Public Contract Code section 4104.5, Owner reserves the right to issue addenda prior to bid time.
- 5. Brand Designations and “Or Equal” Substitutions.** Any specification designating a material, product, thing, or service by specific brand or trade

name, followed by the words “or equal,” is intended only to indicate quality and type of item desired, and bidders may request use of any equal material, product, thing, or service. All data substantiating the proposed substitute as an “equal” item must be submitted with the written request for substitution. A request for substitution must be submitted within the time period provided in the Specifications. If no time period is specified, the substitution request may be submitted any time within 35 days after the date of award of the Contract. This provision does not apply to materials, products, things, or services that may lawfully be designated by a specific brand or trade name under Public Contract Code Section 3400(c).

6. **Bidders Interested in More Than One Bid.** No person, firm, or corporation may submit or be a party to more than one Bid Proposal unless alternate bids are specifically called for. However, a person, firm, or corporation that has submitted a subcontract proposal or quote to a bidder may submit subcontract proposals or quotes to other bidders, and may also submit a Bid Proposal as a prime contractor.
7. **Bid Proposal Form and Enclosures.** Each Bid Proposal must be completed in ink using the Bid Proposal form included in the Contract Documents. The Bid Proposal form should be fully completed without interlineations, alterations, or erasures. Any necessary corrections must be clear and legible, and must be initialed by the bidder’s authorized representative. A Bid Proposal submitted with terms such as “negotiable,” “will negotiate,” or similar, will be considered non-responsive. Each Bid Proposal must be accompanied by bid security, as set forth in Section 9 below, and by the completed Subcontractor List, and Non-Collusion Declaration using the forms included in the Contract Documents.
8. **Bidder Information.** Each Bid Proposal must be signed by the bidder’s authorized representative. Bid Proposals submitted by partnerships must be signed in the partnership name by a general partner with authority to bind the partnership. Bid Proposals submitted by corporations must be signed with the legal name of the corporation, followed by the signature and title of two officers of the corporation with full authority to bind the corporation to the terms of the Bid Proposal, under California Corporation Code section 313.
9. **Bid Security.** Each Bid Proposal must be accompanied by bid security of ten percent of the maximum bid amount, in the form of a cashier’s check, a certified check, or a bid bond, using the form included in the Contract Documents, executed by a surety licensed to do business in the State of California, made payable to Owner. The bid security must guarantee that upon award of the bid, the bidder will execute and submit the Contract on the form included in the Contract Documents, will submit payment and performance bonds for one hundred percent 100% of the maximum

Contract Price, and will submit the insurance certificates and endorsements as required by the Contract Documents within ten days after issuance of the notice of award.

**10. Withdrawal of Bid Proposals.** A Bid Proposal may not be withdrawn for a period of 60 days after the bid opening without forfeiture of the bid security, except as authorized for material error under Public Contract Code Section 5100 et seq.

**11. Bid Protest.** Any bid protest must be in writing and received by Owner at the City Attorney's Office at 17575 Peak Avenue, Morgan Hill, CA, (Fax: (408) 779-1592), before 5:00 p.m. no later than two working days following bid opening (the "Bid Protest Deadline") and must comply with the following requirements:

**11.1 General.** Only a bidder who has actually submitted a Bid Proposal is eligible to submit a bid protest against another bidder. Subcontractors are not eligible to submit bid protests. A bidder may not rely on the bid protest submitted by another bidder, but must timely pursue its own protest. If required by Owner, the protesting bidder must submit a non-refundable fee in the amount specified by Owner, based upon Owner's reasonable costs to administer the bid protest. Any such fee must be submitted to Owner no later than the Bid Protest Deadline, unless otherwise specified. For purposes of this Section 11, a "working day" means a day that Owner is open for normal business, and excludes weekends and holidays observed by Owner.

**11.2 Protest Contents.** The bid protest must contain a complete statement of the basis for the protest and all supporting documentation. Material submitted after the Bid Protest Deadline will not be considered. The protest must refer to the specific portion or portions of the Contract Documents upon which the protest is based. The protest must include the name, address, email address, and telephone number of the person representing the protesting bidder if different from the protesting bidder.

**11.3 Copy to Protested Bidder.** A copy of the protest and all supporting documents must be concurrently transmitted by fax or by email, by or before the Bid Protest Deadline, to the protested bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

**11.4 Response to Protest.** The protested bidder may submit a written response to the protest, provided the response is received by Owner before 5:00 p.m., within two working days after the Bid Protest Deadline or after actual receipt of the bid protest, whichever is sooner (the "Response Deadline"). The response must include all supporting documentation.

Material submitted after the Response Deadline will not be considered. The response must include the name, address, email address, and telephone number of the person representing the protested bidder if different from the protested bidder.

**11.5 Copy to Protesting Bidder.** A copy of the response and all supporting documents must be concurrently transmitted by fax or by e-mail, by or before the Bid Protest Deadline, to the protesting bidder and any other bidder who has a reasonable prospect of receiving an award depending upon the outcome of the protest.

**11.6 Exclusive Remedy.** The procedure and time limits set forth in this section are mandatory and are the bidder's sole and exclusive remedy in the event of bid protest. A bidder's failure to comply with these procedures will constitute a waiver of any right to further pursue a bid protest, including filing a Government Code Claim or initiation of legal proceedings.

**11.7 Right to Award.** Owner reserves the right to award the Contract to the bidder it has determined to be the responsible bidder submitting the lowest responsive bid, and to issue a notice to proceed with the Work notwithstanding any pending or continuing challenge to its determination.

- 12. Rejection of Bids; Award of Contract.** Owner reserves the right, acting in its sole discretion, to waive immaterial bid irregularities, the right to accept or reject any and all bids, or to abandon the Project entirely. The Contract will be awarded, if at all, within 60 calendar days after opening of bids, to the responsible bidder that submitted the lowest responsive bid.
- 13. Bonds.** The successful bidder is required to submit payment and performance bonds as specified in the Contract Documents using the bond forms included in the Contract Documents. All required bonds must be calculated on the maximum total Contract price as awarded, including additive alternates, if applicable.
- 14. Evidence of Responsibility.** Within 24 hours following a request by Owner, a bidder must submit to the Owner satisfactory evidence showing the bidder's financial resources, the bidder's experience in the type of work being required by the Owner, the bidder's organization available for the performance of the Contract and any other required evidence of the bidder's qualifications to perform the proposed Contract. The Owner may consider such evidence before making its decision awarding the proposed Contract.
- 15. License(s).** The successful bidder and its Subcontractor(s) must possess the California contractor's license(s) in the classification(s) required by law to perform the Work.



- 16. Taxes.** The bid price shall include all applicable federal, state, and local taxes.
- 17. Subcontract Limitation.** The successful bidder may not subcontract out more than fifty percent (50%) of the original total contract price, except that any items of work in the Engineer's Estimate designated "Specialty Items" may be performed by subcontract and the value of the work may be deducted from the original total contract price before computing the amount of work required to be performed by the Contractor's own forces. When items of work in the Engineer's Estimate are preceded by the letters (S) or (S-F), those items are designated as "Specialty Items." Where an entire item is subcontracted, the value of work subcontracted will be based on the contract item bid price. When a portion of an item is subcontracted, the value of work subcontracted will be determined by the Engineer based on the estimated percentage of the contract item bid price.
- 18. Ineligible Subcontractor.** Any subcontractor who is ineligible to perform work on a public works project under Labor Code Sections 1777.1 or 1777.7 is prohibited from performing work on this Project.
- 19. DIR Registration.** Owner will not accept a Bid Proposal from or enter into the Contract with a bidder, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions.
- 20. Bid Schedule.** Bidders are required to fully complete the Bid Schedule form accompanying the Bid Proposal form with unit prices as indicated, and to submit the completed Bid Schedule with their Bid Proposal.
- 20.1 Incorrect Totals.** In the event of a discrepancy between the actual total of the itemized or unit prices shown on the Bid Schedule for the base bid, and the amount entered as the base bid on the Bid Proposal form, the actual total of the itemized or unit prices shown on the Bid Schedule for the base bid will be deemed the base bid price. Likewise, in the event of a discrepancy between the actual total of the itemized or unit prices shown on the Bid Schedule for any bid alternate, and the amount entered for the alternate on the Bid Proposal form, the actual total of the itemized prices shown on the Bid Schedule for that alternate will be deemed the alternate price. Nothing in this provision is intended to prevent a bidder from requesting to withdraw its bid for material error under Public Contract Code Section 5100 et seq.
- 20.2 Estimated Quantities.** The quantities shown on the Bid Schedule are estimated and the actual quantities required to perform the Work may

be greater or less than the estimated amount. The Contract Price will be adjusted to reflect the actual quantities required for the Work based on the itemized or unit prices provided in the Bid Schedule, with no allowance for anticipated profit for quantities that are deleted or decreased.

21. **Bidder's Questionnaire.** A completed, signed Bidder's Questionnaire must be submitted with the Bid Proposal, using the form provided by Owner. A bid that does not fully comply with this requirement may be rejected as nonresponsive. A bidder who submits a Bidder's Questionnaire which is subsequently determined to contain false or misleading information, or material omissions, may be disqualified as non-responsible.

## BID PROPOSAL

### 2015 Pavement Resurfacing Project

\_\_\_\_\_ (“Bidder”) hereby submits this Bid Proposal to City of Morgan Hill (“Owner”) for the above-referenced project (“Project”) in response to the Notice Inviting Bids and in accordance with the Contract Documents referenced therein.

1. **Base Bid.** Bidder proposes to perform and fully complete the Work for the Project as specified in the Contract Documents, within the time required for full completion of the Work, for the following price (“Base Bid”):  
\$ \_\_\_\_\_.

2. **Addenda.** Bidder acknowledges receipt of the following addenda:

Addendum:	Date Received:	Addendum:	Date Received:
#01	_____	#05	_____
#02	_____	#06	_____
#03	_____	#07	_____
#04	_____	#08	_____

3. **Bidder’s Warranties.** By signing and submitting this Bid Proposal, Bidder warrants the following:

- 3.1 **Examination of Contract Documents.** Bidder has thoroughly examined the Contract Documents, and represents that, to the best of Bidder’s knowledge there are no errors, omissions, or discrepancies in the Contract Documents subject to the limitations of Public Contract Code Section 1104.
- 3.2 **Examination of Worksite.** Bidder has had the opportunity to examine the Worksite and local conditions at the Project location.
- 3.3 **Bidder is Qualified.** Bidder is fully qualified to perform the Work.
- 3.4 **Responsibility for Bid.** Bidder has carefully reviewed this Bid Proposal and is solely responsible for any errors or omissions contained in its completed Bid.
- 3.5 **Bidder Eligibility.** Neither Bidder nor its principals are currently suspended, debarred, proposed for debarment, declared ineligible or voluntarily excluded from any federal department or agency under Part 29 of Title 49 of the Code of Federal Regulations, except as disclosed in a writing attached to this Bid Proposal.

4. **Award of Contract.** By signing and submitting this Bid Proposal, Bidder agrees that if Bidder is awarded the Contract for the Project, that within ten days following issuance of the notice of award to Bidder, Bidder will do all of the following:

4.1 **Execute Contract.** Enter into the Contract with Owner in accordance with the terms of this Bid Proposal, by signing and submitting to Owner the Contract prepared by Owner using the form included with the Contract Documents;

4.2 **Submit Required Bonds.** Submit to Owner a payment bond and a performance bond, each for 100% of the Contract Price, using the bond forms provided and in accordance with the requirements of the Contract Documents; and

4.3 **Insurance Requirements.** Submit to Owner the insurance certificate(s) and endorsement(s) as required by the Contract Documents.

5. **Bid Security.** As a guarantee that if awarded the Contract, it will perform its obligations under Section 4, above, Bidder is enclosing bid security in the amount of ten percent of its maximum bid amount in the following form:

\_\_\_\_\_ A cashier's check or certified check payable to City of Morgan Hill and issued by \_\_\_\_\_ Bank in the amount of \$\_\_\_\_\_.

\_\_\_\_\_ A bid bond, using the Bid Bond form included with the Contract Documents, payable to City of Morgan Hill and executed by a surety licensed to do business in the State of California.

This Bid Proposal is hereby submitted on \_\_\_\_\_, 20\_\_:

s/ \_\_\_\_\_

\_\_\_\_\_  
Name and Title [print]

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
License # and Classification

\_\_\_\_\_  
Address

\_\_\_\_\_  
Phone

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Fax

## BID SCHEDULE I - GENERAL

### 2015 Pavement Resurfacing Project

Quantities shown are required for bid purposes and may or may not be final pay quantities. Actual quantities, if different, shall be substantiated during the Project by the Contractor (either by field measurement, trucking tags, or other means acceptable to the Engineer).

Bid Item	Description of Bid Item	Approximate Quantity/Unit of Measure	Unit Price	Extended Total
1	Mobilization	Lump Sum		
2	2" AC Mill/Cold Planing	124,490 SF		
3	AC Leveling Course	125 TONS		
4	Paving Mat	17,635 SY		
5	2" AC Overlay	6000 TONS		
6	Full Depth AC Pavement Repair	15,000 SF		
7	Crack Seal	300,000 LF		
8	Butterfield Blvd. Monument Box/Lid	10 EA		
9	Locate and Raise Water Valve Box/Lid	54 EA		
10	Locate and Raise Man Hole Frame/Cover	65 EA		
11	Locate and Raise Monitoring Well Box/Lid	1 EA		
12	Locate and Raise Monument Box/Lid	7 EA		
13	Locate and Raise Detector Hand Hole Box/Lid	14 EA		
14	Type E Traffic Detection Loops	80 EA		
15	Type E (Modified) Traffic Detection Loops	22 EA		
16	24" White (Limit Line/Crosswalk/High Vis. Crosswalk)	35 LF		
17	12" White (Limit Line/Crosswalk)	987 LF		

Bid Item	Description of Bid Item	Approximate Quantity/Unit of Measure	Unit Price	Extended Total
18	12" Yellow (Limit Line/Crosswalk/High Vis. Crosswalk)	520 LF		
19	24" Yellow (Limit Line/Crosswalk/High Vis. Crosswalk)	340 LF		
20	Caltrans Detail 9	9,890 LF		
21	Caltrans Detail 38	1,930 LF		
22	Caltrans Detail 39	11,437 LF		
23	Caltrans Detail 39A	2,995 LF		
24	Type I (10) Arrow	2 EA		
25	Type I (18) Arrow	10 EA		
26	Type IV (L) Arrow	28EA		
27	Type VI Arrow	3 EA		
28	Type VII ( R ) Arrow	2 EA		
29	Word Marking "Bike Lane" w/ Arrow	15 EA		
30	Word Marking "Ped" (White)	2 EA		
31	Word Marking "School" (Yellow)	8 EA		
32	Word Marking "Slow" (Yellow)	8 EA		
33	Railroad Crossing Symbol w/24" White Bar(s)	2 EA		
34	Word Marking "Xing" (Yellow)	8 EA		
35	Word Marking "Xing" (White)	2 EA		
36	Two-way Blue Fire Hydrant Reflector/Markers	13 EA		
37	Surface Mounted Reflectorized Channelizer Posts – 48" Tall	30 EA		
38	Supplemental Work	\$25,000 LS		

Bid Schedule I Total	
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## SUBCONTRACTOR LIST

For each Subcontractor who will perform a portion of the Work in an amount in excess of one-half of 1% of the Bidder's total Contract Price,<sup>1</sup> the bidder must list a description of the work, the name of the Subcontractor, its California contractor license number, and the location of its place of business. **Note to Bidders:** Please print legibly. Illegible forms may be rejected.

DESCRIPTION OF WORK	SUBCONTRACTOR NAME	CALIFORNIA CONTRACTOR LICENSE NUMBER	LOCATION OF BUSINESS	LOCAL VENDOR <sup>2</sup> YES/NO

<sup>1</sup> For street or highway construction this requirement applies to any subcontract of \$10,000 or more.

<sup>2</sup> A Vendor is considered local if their principle place of business is within the city limits of Morgan Hill

## NONCOLLUSION DECLARATION

(To be executed by bidder and submitted with bid)

State of California	)	ss.
	)	
County of _____	)	

\_\_\_\_\_, being first duly sworn, deposes and says that he or she is \_\_\_\_\_ of \_\_\_\_\_ ("Contractor"), the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown of it, or the contents of it, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent of them to effectuate a collusive or sham bid.

This declaration is intended to comply with California Public Contract Code Section 7016 and Title 23 U.S.C Section 112.

I certify under penalty of perjury that the foregoing is true and correct.

s/\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Name and Title [print]



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

CIVIL CODE ' 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of **CALIFORNIA**        )

County of **SANTA CLARA**    )

On \_\_\_\_\_, before me, \_\_\_\_\_  
a Notary Public in and for said County and State, personally appeared

\_\_\_\_\_  
proved to me on the basis of satisfactory evidence to be the person/s whose name/s is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity/ies, and that by his/her/their signature/s on the instrument the person/s, or the entity upon behalf of which the person/s acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
SIGNATURE OF NOTARY PUBLIC

Place Notary Seal Above

## BID BOND

\_\_\_\_\_ (“Bidder”) has submitted a bid, dated \_\_\_\_\_, 20\_\_\_\_ (“Bid”), to City of Morgan Hill (“Owner”) for work on the 2015 Pavement Resurfacing Project (“Project”). Under this duly executed bid bond (“Bid Bond”), Bidder as Principal and

\_\_\_\_\_, its surety (“Surety”), are bound to Owner as Obligee in the penal sum of ten percent of the maximum amount of the Bid (the “Bond Sum”). Bidder and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, as follows:

1. **General.** If Bidder is awarded the Contract for the Project, Bidder will enter into the Contract with the Owner in accordance with the terms of the Bid.
2. **Submittals.** Within ten days following issuance of the notice of award to Bidder, Bidder must submit to Owner the following:
  - 2.1 **Contract.** The executed Contract, using the form provided by Owner in the Project contract documents (“Contract Documents”);
  - 2.2 **Payment Bond.** A payment bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Payment Bond form included with the Contract Documents;
  - 2.3 **Performance Bond.** A performance bond for 100% of the maximum Contract Price, executed by a surety licensed to do business in the State of California using the Performance Bond form included with the Contract Documents; and
  - 2.4 **Insurance.** The insurance certificate(s) and endorsement(s) required by the Contract Documents, and any other documents required under the Instructions for Bidders.
3. **Enforcement.** If Bidder fails to execute the Contract and to submit the bonds and insurance certificates as required by the Contract Documents, Surety guarantees that Bidder forfeits the Bond Sum to Owner. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

4. **Duration; Waiver.** If Bidder fulfills its obligations under Section 2, above, then this obligation will be null and void; otherwise it will remain in full force and effect for 60 days following award of the Contract or until this Bid Bond is returned to Bidder, whichever occurs first. Surety waives the provisions of Civil Code Sections 2819 and 2845.

This Bid Bond is entered into and effective on \_\_\_\_\_, 20\_\_\_\_\_.

SURETY:

\_\_\_\_\_

s/ \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Attach Acknowledgement, Notary Seal, and Attorney-In-Fact Certificate)

CONTRACTOR:

\_\_\_\_\_

s/ \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## BIDDER'S QUESTIONNAIRE

### 2015 PAVEMENT RESURFACING PROJECT

Submission of a completed Bidder's Questionnaire with the sealed bid is required for the above-referenced project ("Project"). Owner may use the completed Questionnaire to evaluate the Bidder's qualifications for this Project. The Questionnaire must be filled out completely, accurately, and legibly. Any errors, omissions, or misrepresentations in completion of the Questionnaire may be grounds for rejection of the bid or termination of a Contract awarded pursuant to the bid.

#### Part 1: General Information

Contractor Name: \_\_\_\_\_ ("Contractor")

Check One: ☐ Corporation  
☐ Partnership  
☐ Sole Proprietorship  
☐ Joint Venture of: \_\_\_\_\_  
☐ Other: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Owner of Company: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Contractor's License Number(s): \_\_\_\_\_

#### Part 2: Contractor Experience

1. How many years has Contractor been in business under its present business name? \_\_\_\_\_

2. Has Contractor completed projects similar in type and size to this Project as a general contractor? \_\_\_\_\_

3. Has Contractor ever been disqualified on grounds that it is not responsible? If yes, provide additional information on a separate sheet of paper regarding the

disqualification, including the name and address of the agency or owner of the subject project, the type and size of the project, the reasons that Contractor was disqualified as not responsible, and the month and year in which the disqualification occurred.

4. Has Contractor ever been terminated from a construction project, either as a general contractor or as a subcontractor? If yes, provide additional information on a separate sheet of paper regarding the termination, including the name and address of the agency or owner of the subject project, the type and size of the project, whether Contractor was under contract as a general contractor or a subcontractor, the reasons that Contractor was terminated, and the month and year in which the termination occurred.

5. Provide information about Contractor's past projects performed as general contractor as follows:

5.1 Six (6) most recently completed public works projects within the last three (3) years;

5.2 Three (3) largest completed projects within the last three (3) years; and

5.3 Any project which is similar to this Project.

6. Use separate sheets of paper provide all of the following information for each project identified in response to the above three categories:

- a. Project Name
- b. Location
- c. Owner
- d. Owner Contact (name and current phone number)
- e. Architect or Engineer Name
- f. Architect or Engineer Contact (name and current phone number)
- g. Construction Manager (name and current phone number)
- h. Description of Project, Scope of Work Performed
- i. Initial Contract Value (at time of bid award)
- j. Final Cost of Construction (including change orders)
- k. Original Scheduled Completion Date
- l. Time Extensions Granted (number of days)
- m. Actual Date of Completion
- n. Number and amount of Stop Notices or Mechanic's Liens filed
- o. Amount of liquidated damages assessed against Contractor
- p. Nature and resolution of any claim, lawsuit, and/or arbitration between Contractor and the Owner

### Part 3: Verification

In signing this document, I, the undersigned, declare that I am duly authorized to sign and submit this Bidder's Questionnaire on behalf of the named Contractor, and that all responses and information set forth in this Bidder's Questionnaire and accompanying attachments are, to the best of my knowledge, true, accurate and complete as of the date of submission. **I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

By [name, title]: \_\_\_\_\_

For [name of Contractor]: \_\_\_\_\_

## CONTRACT

This public works contract ("Contract") is entered into by and between City of Morgan Hill ("Owner") and \_\_\_\_\_ ("Contractor") for work on the 2015 Pavement Resurfacing Project ("Project").

The parties agree as follows:

1. **Award of Contract.** In response to the Notice Inviting Bids, Contractor has submitted a Bid Proposal to perform work on the Project, and on \_\_\_\_\_, 20\_\_\_\_, (contract date) Owner authorized award of this Contract to Contractor for the amount of Contractor's bid.
2. **Contract Documents.** The Contract Documents incorporated into this Contract include and are comprised of all of the following:
  - 2.1 Notice Inviting Bids;
  - 2.2 Instructions to Bidders;
  - 2.3 Addenda, if any;
  - 2.4 Bid Proposal and attachments thereto;
  - 2.5 Contract;
  - 2.6 Payment and Performance Bonds;
  - 2.7 General Conditions;
  - 2.8 Special Conditions;
  - 2.9 Project Drawings and Specifications;
  - 2.10 Change Orders, if any;
  - 2.11 Notice of Award;
  - 2.12 Notice to Proceed;
  - 2.13 And the following: "*No other documents*"
3. **Contractor's Obligations.** Contractor agrees to perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, equipment, transportation, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents.

4. **Payment.** As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, Owner will pay Contractor

Dollars (\$\_\_\_\_\_) (the "Contract Price"), in accordance with the payment provisions in the General Conditions. The Contract Price includes all applicable federal, state, and local taxes.

5. **Time for Completion.** Contractor will fully complete the Work for the Project within 30 calendar days from the commencement date given in the Notice to Proceed ("Contract Time"). By signing below, Contractor expressly waives any claim for delayed early completion.

6. **Liquidated Damages.** If Contractor fails to complete the Work within the Contract Time, Owner may assess liquidated damages in the amount of Five Hundred Dollars (\$500.00) for each day of unexcused delay in completion, and the Contract Price shall be reduced accordingly.

7. **Labor Code Compliance.**

7.1 **General.** This Contract is subject to all applicable requirements of Chapter 1 of Part 7 of Division 2 of the Labor Code, including requirements pertaining to wages, working hours and workers' compensation insurance.

7.2 **Prevailing Wages.** This Project is subject to the prevailing wage requirements applicable to the locality in which the Work is to be performed for each craft, classification or type of worker needed to perform the Work, including employer payments for health and welfare, pension, vacation, apprenticeship and similar purposes. Copies of these prevailing rates are available online at <http://www.dir.ca.gov/DLSR>.

7.3 **DIR Registration.** A Bid Proposal submitted on or after March 1, 2015 will not be accepted and Owner will not enter into the Contract on or after April 1, 2015, without proof that the bidder and its Subcontractors are registered with the California Department of Industrial Relations ("DIR") to perform public work under Labor Code Section 1725.5, subject to limited legal exceptions

8. **Workers' Compensation Certification.** Under Labor Code Section 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply



with such provisions before commencing the performance of the Work on this Contract.”

- 9. Notice.** Any notice, billing, or payment required by the Contract Documents must be made in writing, and sent to the other party by personal delivery, U.S. Mail, a reliable overnight delivery service, facsimile, or by email as a PDF (or comparable) file. Notice is deemed effective upon delivery unless otherwise specified. Notice for each party must be given as follows:

	<b>Owner</b>	<b>Contractor</b>
Name	City of Morgan Hill	
Address	17575 Peak Avenue	
City/state/zip	Morgan Hill, CA 95037	
Phone	408/778-6480	
Fax	408/779-7236	
Attn:	Scott Creer	
Email	<a href="mailto:scott.creer@morganhill.ca.gov">scott.creer@morganhill.ca.gov</a>	
Copy to:		

## **10. General Provisions.**

- 10.1 Assignment and Successors.** Contractor may not assign its rights or obligations under this Contract, in part or in whole, without Owner’s written consent. This Contract is binding on Contractor’s successors and permitted assigns.
- 10.2 Third Party Beneficiaries.** There are no intended third party beneficiaries to this Contract except as expressly provided in the General Conditions or Special Conditions.
- 10.3 Governing Law and Venue.** This Contract will be governed by California law and venue will be in the Superior Court of the County in which the Project is located, and no other place.
- 10.4 Amendment.** No amendment or modification of this Contract will be binding unless it is in a writing duly authorized and signed by the parties to this Contract.
- 10.5 Integration; Severability.** This Contract and the Contract Documents incorporated herein, including authorized amendments or Change Orders thereto, constitute the final, complete, and exclusive terms of the agreement between Owner and Contractor. If any provision of the Contract Documents, or portion of a provision, is determined to be illegal, invalid, or unenforceable, the remaining provisions of the Contract Documents will remain in full force and effect.

**10.6 Authorization.** Each individual signing below warrants that he or she is authorized to do so by the party that he or she represents, and that this Contract is legally binding on that party. If Contractor is a corporation, signatures from two officers of the corporation are required pursuant to California Corporation Code Section 313.

*[Signatures are on the following page.]*

The parties agree to this Contract as witnessed by the signatures below:

**CITY OF MORGAN HILL:**

**CONTRACTOR:**

s/ \_\_\_\_\_

s/ \_\_\_\_\_

\_\_\_\_\_  
Steve Rymer  
City Manager

\_\_\_\_\_  
Name/Title [print]

Date: \_\_\_\_\_

*Corporate entities must provide a  
second signature:*

**Attest:**

s/ \_\_\_\_\_

s/ \_\_\_\_\_

\_\_\_\_\_  
Name/Title [print]

\_\_\_\_\_  
Irma Torrez  
City Clerk

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Contractor's License Number(s)

**Approved as to Form:**

Expiration Date(s)

s/ \_\_\_\_\_

Seal:

\_\_\_\_\_  
Renee Gurza  
City Attorney  
Date: \_\_\_\_\_

## PAYMENT BOND

City of Morgan Hill ("Owner") and

\_\_\_\_\_ ("Contractor") have entered into a contract, dated \_\_\_\_\_, 20\_\_\_\_ ("Contract") for work on the 2015 Pavement Resurfacing Project ("Project"). The Contract is incorporated by reference into this Payment Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and \_\_\_\_\_, its surety ("Surety"), are bound to Owner as Obligee in an amount not less than (\$\_\_\_\_\_) ("Bond Sum"), under California Civil Code Sections 9550, et seq.
2. **Surety's Obligation.** If Contractor or any of its Subcontractors fails to pay any of the persons named in California Civil Code Section 9100 amounts due under the Unemployment Insurance Code with respect to work or labor performed under the Contract, or for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Contractor and its Subcontractors, under California Unemployment Insurance Code Section 13020, with respect to the work and labor, then Surety will pay for the same.
3. **Beneficiaries.** This Bond inures to the benefit of any of the persons named in California Civil Code Section 9100, so as to give a right of action to those persons or their assigns in any suit brought upon this Bond. Contractor must promptly provide a copy of this Bond upon request by any person with legal rights under this Bond.
4. **Duration.** If Contractor promptly makes payment of all sums for all labor, materials, and equipment furnished for use in the performance of the Work required by the Contract, in conformance with the time requirements set forth in the Contract and as required by California law, Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.
5. **Waivers.** Surety waives any requirement to be notified of alterations to the Contract or extensions of time for performance of the Work under the Contract. Surety waives the provisions of Civil Code Sections 2819 and 2845. Owner waives requirement of a new bond for any supplemental contract under Civil Code Section 9550. Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

6. **Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for Owner's attorneys' fees and costs in any action to enforce the provisions of this Bond.
7. **Effective Date; Execution.** This Bond is entered into and is effective on \_\_\_\_\_, 20\_\_\_\_.

*[Signatures are on the following page]*

SURETY:

\_\_\_\_\_

s/ \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

\_\_\_\_\_

s/ \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Renee Gurza, City Attorney

Date: \_\_\_\_\_

## PERFORMANCE BOND

City of Morgan Hill ("Owner") and

\_\_\_\_\_ ("Contractor")  
have entered into a contract, dated \_\_\_\_\_, 20\_\_\_\_ ("Contract") for  
work on the 2015 Pavement Resurfacing Project ("Project"). The Contract is  
incorporated by reference into this Performance Bond ("Bond").

1. **General.** Under this Bond, the Contractor as Principal and \_\_\_\_\_, its surety ("Surety"), are bound to Owner as Obligee for an amount not less than Dollars (\$\_\_\_\_\_) (the "Bond Sum"). By executing this Bond, Contractor and Surety bind themselves and their respective heirs, executors, administrators, successors and assigns, jointly and severally, to the provisions of this Bond.
2. **Surety's Obligations; Waiver.** If Contractor fully performs its obligations under the Contract, including its warranty obligations under the Contract, Surety's obligations under this Bond will become null and void upon recordation of the notice of completion, provided Contractor has timely provided a warranty bond as required under the Contract. Otherwise Surety's obligations will remain in full force and effect until expiration of the one year warranty period under the Contract. Surety waives any requirement to be notified of and further consents to any alterations to the Contract made under the applicable provisions of the Contract Documents, including changes to the scope of Work or extensions of time for performance of Work under the Contract. Surety waives the provisions of Civil Code Sections 2819 and 2845.
3. **Application of Contract Balance.** Upon making a demand on this Bond, Owner will make the Contract Balance available to Surety for completion of the Work under the Contract. For purposes of this provision, the Contract Balance is defined as the total amount payable by Owner to the Contractor as the Contract Price minus amounts already paid to Contractor, and minus any liquidated damages, credits, or backcharges to which Owner is entitled under the terms of the Contract.
4. **Contractor Default.** Upon written notification from Owner that Contractor is in default under Article 13 of the Contract General Conditions, time being of the essence, Surety must act within the time specified in Article 13 to remedy the default through one of the following courses of action:
  - 4.1 Arrange for completion of the Work under the Contract by Contractor, with the Owner's consent, but only if Contractor is in default solely due to its financial inability to complete the Work;

**4.2** Arrange for completion of the Work under the Contract by a qualified contractor acceptable to Owner, and secured by performance and payment bonds issued by an admitted surety as required by the Contract Documents, at Surety's expense, or

**4.3** Waive its right to complete the Work under the Contract and reimburse Owner the amount of Owner's costs to have the remaining Work completed.

**5. Surety Default.** If Surety defaults on its obligations under the Bond, Owner will be entitled to recover all costs it incurs due to Surety's default, including legal, design professional, or delay costs.

**6. Notice.** Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:

Attn: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

**7. Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for Owner's attorneys' fees and costs in any action to enforce the provisions of this Bond.

**8. Effective Date; Execution.** This Bond is entered into and effective on \_\_\_\_\_, 20\_\_\_\_.

*[Signatures are on the following page.]*



SURETY:

\_\_\_\_\_

s/ \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(Attach Acknowledgment with Notary Seal and Power of Attorney)

CONTRACTOR:

\_\_\_\_\_

s/ \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Renee Gurza, City Attorney

Date: \_\_\_\_\_

## GENERAL CONDITIONS

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### Article 1 Definitions

**1.1 Definitions.** The following definitions apply to all of the Contract Documents unless otherwise indicated. Defined terms and titles of documents are capitalized in the Contract Documents, with the exception of the words “day,” “furnish,” and “install.”

**Allowance** means an amount included in the Bid Proposal for Work that may or may not be included in the Project, depending on conditions that will not become known until after bids are opened. If the Contract Price includes an Allowance and the cost of performing the Work covered by that Allowance is greater or less than the Allowance, the Contract Price will be increased or decreased accordingly.

**Architect/Engineer** means the licensed individual(s) or firm(s) retained by Owner to provide architectural or engineering services for the Project. If no Architect/Engineer has been retained for this Project, any reference to Architect/Engineer is deemed to refer to Owner.

**Article**, as used in these General Conditions, means a numbered Article of the General Conditions, unless otherwise indicated by the context.

**Change Order** means a written document duly approved and executed by Owner, which changes the scope of Work, the Contract Price, or the Contract Time.

**Claim** means a separate demand by Contractor for change in the Contract Time or Contract Price, that has previously been submitted to Owner in accordance with the requirements of the Contract Documents, and which has been rejected by Owner, in whole or in part; or a written demand by Contractor objecting to the amount of Final Payment.

**Construction Manager** means the individual(s) or firm retained by Owner to provide construction management services for the Project. If no Construction Manager has been retained for this Project, any reference to Construction Manager is deemed to refer to Owner.

**Contract** means the signed agreement between Owner and Contractor.

**Contract Documents** means, collectively, all of the documents listed as such in Section 2 of the Contract, including the Notice Inviting Bids; the Instructions to Bidders; addenda, if any; the Bid Proposal, and attachments thereto; the Contract; the notice of award and notice to proceed; the payment and performance bonds; the General Conditions; the Special Conditions; the approved, stamped Project Drawings and Specifications; any Change Orders; and any other documents expressly made part of the Contract Documents.

**Contract Price** means the total compensation to be paid to the Contractor for performance of the Work, as set forth in the Contract and as amended by Change Order or adjusted for an Allowance. The Contract Price is not subject to adjustment due to inflation or due to the increased cost of labor, material, or equipment following submission of the Bid Proposal. The Contract Price is deemed to include all applicable federal, state, and local taxes

**Contract Time** means the number of calendar days for performance of the Work, as set forth in the Contract and as amended by Change Order.

**Contractor** means the individual, partnership, corporation, or joint-venture who has signed the Contract with Owner to perform the Work.

**Day** means a calendar day unless otherwise specified.

**Drawings** means the Owner-provided plans and graphical depictions of the Project requirements, and does not include Shop Drawings.

**DSA** means the Division of the State Architect for the State of California.

**Engineer** means the City Engineer for the City of Morgan Hill and his or her authorized designee(s).

**Final Completion** means the Contractor has fully completed all of the Work required by the Contract Documents, including all punch list items, any required commissioning, and has provided all required submittals, including the warranty bond, instructions and manuals, and as-built drawings to the Owner's satisfaction.

**Final Payment** means payment to Contractor of the unpaid Contract Price, including release of undisputed retention, less amounts withheld pursuant to the Contract Documents, including liquidated damages, up to 125% of the amount of any unreleased stop notice, amounts subject to setoff, up to 150% of any unresolved third-party claim for which Contractor is required to indemnify Owner, and up to 150% of any amount in dispute as authorized by Public Contract Code Section 7107.

**Furnish** means to purchase and deliver to the Worksite designated for installation.

**Hazardous Materials** means any substance or material identified now or in the future as hazardous under any federal, state, or local law or regulation, or any other substance or material that may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal, or cleanup.

**"Including."** Unless the context requires otherwise, the term "including" means "including, but not limited to."

**Inspector** means the individual(s) or firm(s) retained by Owner to inspect the workmanship, materials, and manner of construction of the Project and its components to ensure compliance with the Contract Documents and all applicable codes, regulations, and permits.

**Install** means to fix in place for materials, and to fix in place and connect for equipment.

**Owner** means the public agency which has signed the Contract with Contractor for performance of the Work, acting through its governing body, officers, employees, and authorized representatives.

**Owner's Representative** means the individual designated by Owner to oversee and manage the Project on Owner's behalf and may include his or her authorized delegate(s) when the Owner's Representative is unavailable. If no Owner's representative has been designated for this Project, any reference to Owner's Representative is deemed to refer to Owner.

**Project** means the public works project referenced in the Contract.

**Section** as used in these General Conditions, means a numbered Section of the General Conditions, unless otherwise indicated by the context.

**Shop Drawings** means drawings, plan details or other graphical depictions prepared by or on behalf of Contractor, and subject to Owner approval, which are intended to provide details for fabrication, installation, and the like, of items required by or shown in the Drawings and Specifications.

**Specifications** means the technical, text specifications describing the Project requirements, which are prepared for and incorporated into this Project by or on behalf of Owner, and does not include the Contract, General Conditions or Special Conditions.

**Subcontractor** means an individual, partnership, corporation, or joint-venture retained by Contractor directly or indirectly through a subcontract to perform a specific portion of the Work. The term Subcontractor applies to subcontractors, suppliers, fabricators, and equipment lessors of all tiers, unless otherwise indicated by the context.

**Technical Specifications** means Specifications.

**Work** means all of the construction and services necessary or incidental to completing the Project in conformance with the requirements of the Contract Documents.

**Worksite** means the place or places where the Work is performed.

## Article 2 Roles and Responsibilities

### 2.1 Architect/Engineer.

(A) **General.** Architect/Engineer, as the Owner's representative, is responsible for the overall design of the Project, and is authorized to act on Owner's behalf to ensure performance of the Work in compliance with the Contract Documents.

(B) **Authority.** Architect/Engineer has authority to stop the Work when necessary to ensure compliance with the requirements of the Contract Documents. Architect/Engineer also has authority to reject any and all Work or materials which do not conform to the requirements of the Contract Documents.

(C) **Interpretation.** Architect/Engineer will decide all questions pertaining to performance of the Work, and will provide written decisions on all matters relating to the execution and progress of the Work or interpretation of the Contract Documents. The Architect/Engineer's decision regarding interpretation of the Drawings or Specifications is final and conclusive.

### 2.2 Contractor.

(A) **General.** Contractor must provide all labor, materials, equipment and services necessary to perform and timely complete the Work in strict accordance with the Contract Documents, and in an economic and efficient manner in the best interests of Owner.

(B) **Responsibility for the Work.** Contractor is responsible for supervising and directing all aspects of the Work to facilitate the efficient and timely completion of the Work. Contractor is solely responsible for, and required to exercise full control over, construction means, methods, techniques, sequences, procedures, and coordination of all portions of the Work with that of all other Contractors and Subcontractors, except to the extent that the Contract Documents provide other specific instructions.

(C) **Project Administration.** Contractor must provide sufficient and competent administration, staff, and skilled workforce necessary to perform and timely complete the Work in accordance with the Contract Documents. Before starting the Work, Contractor must designate in writing and provide complete contact information, including phone numbers and email address, for the officer or employee in Contractor's organization who is to serve as Contractor's primary representative for the

Project, and who has authority to act on Contractor's behalf. A Subcontractor may not serve as Contractor's primary representative.

(D) **On-Site Superintendent.** Contractor must, at all times during performance of the Work, provide a qualified and competent full-time superintendent, acceptable to Owner, and assistants, as necessary, who must be physically present at the Project site while any aspect of the Work is being performed, and who shall have authority to direct the performance of the Work. Failure to comply may result in temporary suspension of the Work, at Contractor's sole expense and with no extension of Contract Time, until the superintendent is physically present to supervise the Work. Contractor must provide written notice to Owner, as soon as practicable, before replacing the superintendent.

(E) **Standards; Compliance.** Contractor must, at all times, ensure that the Work is performed in a good workmanlike manner following best practices and in full compliance with the Contract Documents and all applicable laws, regulations, codes, standards, and permits.

(F) **Responsible Party.** Contractor is solely responsible to Owner for the acts or omissions of any party or parties performing portions of the Work or providing equipment, materials or services for or on behalf of Contractor or its Subcontractors. If any person employed by Contractor fails or refuses to comply with the Engineer's directions regarding the performance of the Work, or is determined by the Engineer to be incompetent to perform the Work, or acts in a disorderly or improper manner at the Worksite, that person shall be permanently dismissed from the Project at the request of the Engineer.

(G) **Correction of Defects.** Contractor must promptly correct, at Contractor's sole expense, any Work that is determined by Owner, Architect/Engineer, or the Inspector to be deficient or defective in workmanship, materials, and equipment.

(H) **Contractor's Records.** Contractor must maintain all of its records relating to the Project in any form, including paper documents, photos, videos and electronic records. Project records subject to this provision include, but are not limited to, Project cost records and records relating to preparation of Contractor's bid.

- (1) Contractor's cost records must include all supporting documentation, including original receipts, invoices, and payroll records, evidencing its direct costs to perform the Work, including, but not limited to, costs for labor, materials and equipment. Each cost record should include, at a minimum, a description of the expenditure with references to the applicable

requirements of the Contract Documents, the amount actually paid, the date of payment, and whether the expenditure is part of the original Contract Price, related to an executed Change Order, or otherwise categorized by Contractor as extra work. Contractor's failure to comply with this provision as to any claimed cost operates as a waiver of any rights to recover the claimed cost.

- (2) Contractor must continue to maintain its Project records in an organized manner for a period of four years after Owner's acceptance of the Project or following termination, whichever occurs first. Subject to prior notice to Contractor, Owner is entitled to inspect or audit any of Contractor's Project records relating to the Project or to investigate Contractor's plant or equipment during Contractor's normal business hours.

## **2.3 Subcontractors.**

(A) **General.** All Work which is not performed by Contractor with its own forces must be performed by Subcontractors, subject to the fifty percent (50%) limitation set forth in the Instructions and Information for Bidders. Owner reserves the right to approve or reject any and all Subcontractors proposed to perform the Work.

(B) **Contractual Obligations.** Contractor must require every Subcontractor to be bound to the provisions of the Contract Documents as they apply to the Subcontractor's portion(s) of the Work, and to likewise bind their subcontractors or suppliers. Nothing in these Contract Documents creates a contractual relationship between a Subcontractor and Owner, but Owner is deemed to be a third-party beneficiary of the contract between Contractor and each Subcontractor.

Copies of subcontracts shall be available to the Engineer upon request. Before a Subcontractor commences work on the Project, Contractor shall provide the Engineer a written statement with the name of the subcontractor, a description of each portion of the Work performed by the subcontractor, and the percentage of the overall Work to be performed by the subcontractor.

(C) **Termination.** If the Contract is terminated, each Subcontractor's agreement must be assigned by Contractor to Owner, subject to the prior rights of any surety, provided that the Owner accepts the assignment by written notification, and assumes all rights and obligations of Contractor pursuant to each such subcontract agreement.



(D) ***Substitution of Subcontractor.*** If Contractor requests substitution of a listed Subcontractor under Public Contract Code Section 4107, Contractor is solely responsible for all costs Owner incurs in responding to the request, including legal fees and costs to conduct a hearing.

## **2.4 Coordination of Work.**

(A) ***Concurrent Work.*** Owner reserves the right to perform or to have performed other work on or adjacent to the Project site while the Work is being performed. Contractor is responsible for coordinating its Work with other work being performed on or adjacent to the Project site, and must avoid hindering, delaying, or interfering with the work of other contractors and subcontractors. To the full extent permitted by law, Contractor must hold harmless and indemnify Owner, Architect/Engineer, and Construction Manager against any and all claims arising from or related to Contractor's avoidable, negligent, or willful hindrance of, delay to, or interference with the work of another contractor or subcontractor.

(B) ***Defects.*** Before proceeding with any portion of the Work affected by the construction or operations of others, Contractor must give the Architect/Engineer prompt written notification of any defects Contractor discovers which will prevent the proper execution of the Work. Failure to give notice of any such known defects will be deemed acknowledgement by Contractor that the work of others is not defective and will not prevent the proper execution of the Work.

## **2.5 Submittals.** Unless otherwise specified, Contractor must submit to Architect/Engineer for review and approval, all schedules, Shop Drawings, samples, product data and similar submittals required by the Contract Documents, or upon request by the Architect/Engineer. All submittals, including requests for information (RFIs) are subject to the provisions of this Section.

(A) ***General.*** Contractor is responsible for ensuring that its submittals are accurate and conform to the Contract Documents.

(B) ***Time and Manner of Submission.*** Contractor must ensure that its submittals are prepared and delivered in a manner consistent with the current approved schedule for the Work and within the applicable time specified elsewhere in the Contract Documents, or if no time is specified, in such time and sequence so as not to delay the performance of the Work or completion of the Project.

(C) ***Required Contents.*** Each submittal must include the Project name and location, Contractor's name and address, the name and address of any Subcontractor or supplier involved with the submittal, the date, and

references to applicable Specification section(s) and/or drawing and detail number(s).

(D) **Required Corrections.** If corrections are required, Contractor must promptly make and submit any required corrections in full conformance with the requirements of this Section.

(E) **Effect of Review and Approval.** Review and approval of a submittal by the Architect/Engineer will not relieve Contractor from complying with the requirements of the Contract Documents.

(F) **Enforcement.** Any Work performed or material used without prior approval of a required submittal will be performed at Contractor's risk, and Contractor may be required to bear the costs incident thereto, including the cost of removing and replacing such Work, repairs to other affected portions of the Work, and the cost of additional time or services required of the Architect/Engineer, Construction Manager, or Inspector.

### **Article 3 Contract Documents**

#### **3.1 Interpretation of Contract Documents.**

(A) **Drawings and Specifications.** The Drawings and Specifications included in the Contract Documents are complementary. If Work is shown on one but not on the other, Contractor must perform the Work as though fully described on both, consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. The Drawings and Specifications are deemed to include and require everything necessary and reasonably incidental to completion of the Work, whether or not particularly mentioned or shown. Contractor must perform all work and services and supply all things reasonably related to and inferable from the Contract Documents. In the event of a conflict between the Drawings and Specifications, the Specifications will control.

(B) **Duty to Notify.** If Contractor becomes aware of any ambiguity, discrepancy, omission, or error in the Drawings or Specifications, Contractor must immediately notify the Architect/Engineer and request clarification of such, by submitting a written request for information (RFI) in the manner specified by Owner. The Architect/Engineer's clarifications or interpretations will be final and binding.

(C) **Figures and Dimensions.** Figures control over scaled dimensions.

(D) **Technical or Trade Terms.** Any terms that have well-known technical or trade meanings will be interpreted in accordance with those meanings, unless otherwise specifically defined in the Contract Documents.

(E) **Measurements.** Contractor must verify all relevant measurements at the Worksite before ordering any material or performing any Work, and will be responsible for the correctness of those measurements.

**3.2 Order of Precedence.** Information included in one Contract Document but not in another will not be considered a conflict or inconsistency. Unless otherwise specified in the Special Conditions, in case of any conflict or inconsistency among the Contract Documents, the following order of precedence will apply, beginning from highest to lowest:

- (A) Change Orders;
- (B) Addenda;
- (C) Contract;
- (D) Notice to Proceed;
- (E) Notice of Award;
- (F) Special Conditions;
- (G) General Conditions;
- (H) Payment and Performance Bonds;
- (I) Specifications;
- (J) Drawings;
- (K) Contractor's Bid Proposal and attachments;
- (L) Notice Inviting Bids;
- (M) Instructions for Bidders; and
- (N) Any documents prepared by and on behalf of a third party, that were not prepared specifically for this Project, e.g., Caltrans Standard Specifications or Caltrans Special Provisions.

**3.3 Caltrans Standard Specifications.** Any reference to or incorporation of the Standard Specifications of the State of California, Department of Transportation ("Caltrans"), including "Standard Specifications," "Caltrans Specifications," "State Specifications," or "CSS," means the most current edition of Caltrans' Standard Specifications ("Standard Specifications"), and the most current amendments on the date that Contractor's bid was submitted for this Project. The following provisions apply to use of or reference to the Standard Specifications:

(A) **Limitations.** None of the "General Provisions" of the Standard Specifications, i.e., Sections 1 through 9, applies to these Contract Documents with the exception of any specific provisions, if any, which are expressly stated to apply to these Contract Documents.

(B) **Conflicts or Inconsistencies.** If there is a conflict or inconsistency between any provision in the Standard Specifications and a provision of these Contract Documents, as determined by the Architect/Engineer, the provision in the Contract Documents will govern.

(C) **Meanings.** Terms used in the Standard Specifications are to be interpreted as follows:

(1) Any reference to the "Engineer" is deemed to mean Owner, Architect/Engineer or Owner's Representative.

(2) Any reference to the "Special Provisions" is deemed to mean the Special Conditions.

(3) Any reference to the "State" is deemed to mean Owner.

**3.4 For Reference Only.** Contractor is responsible for the careful review of any document, study, or report appended to the Contract Documents solely for informational purposes and identified as "For Reference Only." Nothing in any document, study, or report so appended and identified is intended to supplement, alter, or void any provision of the Contract Documents. However, Contractor is advised that Owner or its representatives may be guided by information or recommendations included in such reference documents, particularly when making determinations as to the acceptability of proposed materials, methods, or changes in the Work. Contractor must promptly notify Architect/Engineer of any perceived or actual conflict between the Contract Documents and any document provided For Reference Only.

## **Article 4**

### **Bonds, Indemnity, and Insurance**

**4.1 Payment and Performance Bonds.** Within ten days following issuance of the notice of award, Contractor is required to provide a payment bond and a performance bond, each in the penal sum of not less than 100% of the Contract Price, using the bond forms included with the Contract Documents.

(A) **Surety.** Each bond must be issued by a surety admitted in California. If an issuing surety cancels the bond or becomes insolvent, within seven days following written notice from Owner, Contractor must substitute a surety acceptable to Owner. If Contractor fails to substitute an acceptable surety within the specified time, Owner may, at its sole

discretion, withhold payment from Contractor until the surety is replaced to Owner's satisfaction, or terminate the Contract for default.

**4.2 Indemnity.** To the fullest extent permitted by law, Contractor must indemnify, defend, and hold harmless Owner, its agents and consultants, Architect/Engineer, and Construction Manager (individually, an "Indemnatee," and collectively the "Indemnitees") from and against any and all liability, loss, damage, claims, expenses (including, without limitation, attorney fees, expert witness fees, paralegal fees, and fees and costs of litigation or arbitration) (collectively, "Liability") of every nature arising out of or in connection with the acts or omissions of Contractor, its employees, Subcontractors, representatives, or agents, in bidding or performing the Work or its failure to comply with any of its obligations under the Contract, except such Liability caused by the active negligence, sole negligence, or willful misconduct of an Indemnatee. This indemnity requirement applies to any Liability arising from alleged defects in the content or manner of submission of the Contractor's bid for the Contract. Contractor's failure or refusal to timely accept a tender of defense pursuant to this provision will be deemed a material breach of this Contract. Owner will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code Section 9201.

**4.3 Insurance.** No later than ten days following issuance of the notice of award, Contractor is required to procure and provide proof of the insurance coverage required by this section in the form of certificates and endorsements. The required insurance must cover the activities of Contractor and its Subcontractors relating to or arising from the performance of the Work, and must remain in full force and effect at all times during the period covered by the Contract until the date of recordation of the notice of completion. All required insurance must be issued by a company licensed to do business in the State of California, and each such insurer must have an A.M. Best's financial strength rating of "A" or better and a financial size rating of "VII" or better. If Contractor fails to provide any of the required coverage in full compliance with the requirements of the Contract Documents, Owner may, at its sole discretion, purchase such coverage at Contractor's expense and deduct the cost from payments due to Contractor, or terminate the Contract for default.

(A) **Policies and Limits.** The following insurance policies and limits are required for this Contract unless otherwise specified in the Special Conditions:

(1) *Commercial General Liability Insurance ("CGL"):* The CGL policy must be issued on an occurrence basis, written on a comprehensive general liability form, and shall include coverage for

liability arising from Contractor's or its Subcontractor's acts or omissions in the performance of the Work, including contractor's protected coverage, blanket contractual, completed operations, vehicle coverage and employer's non-ownership liability coverage, with limits of at least \$2,000,000.00 per occurrence. The CGL policy must name Owner as an additional insured for all liability arising out of the operations by or on behalf of the named insured, and must protect Owner, its officers, employees, and agents against any and all liability for personal injury, death, or property damage or destruction arising directly or indirectly in the performance of the Contract. The CGL coverage may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by excess or umbrella policies, provided each such policy complies with the requirements set forth herein.

(2) *Pollution Liability Insurance:* Pollution Liability is required for this Agreement due to the scope of work involving hazardous materials, contaminated soil disposal, and/or a risk of accidental release of fuel oil, chemicals or other toxic gases or hazardous materials. The policy must be issued on an occurrence basis with policy limits of at least one million dollars (\$1,000,000.00) for any one accident or occurrence. Coverage shall be provided for both work performed on site, as well as during the transport of hazardous materials.

(3) *Workers' Compensation Insurance and Employer's Liability:* The policy must comply with the requirements of the California Workers' Compensation Insurance and Safety Act, with of at least \$1,000,000.00. If Contractor is self-insured, Contractor must provide its Certificate of Permission to Self-Insure, duly authorized by the Department of Industrial Relations.

(4) *Commercial Automobile Coverage:* The Automobile policy shall be issued on an occurrence basis with policy limits of at least \$1,000,000 per occurrence.

(B) **Notice.** Each certificate of insurance must state that the coverage afforded by the policy or policies will not be reduced, cancelled or allowed to expire without at least 30 days written notice to Owner, unless due to non-payment of premiums, in which case ten days written notice must be made to Owner.

(C) **Waiver of Subrogation.** Each required policy must include an endorsement providing that the carrier agrees to waive any right of subrogation it may have against Owner.

(D) **Required Endorsements.** The CGL Policy and the Builder's Risk Policy must include the following specific endorsements:

(1) The inclusion of more than one insured will not operate to impair the rights of one insured against another, and the coverages afforded will apply as though separate policies have been issued to each insured.

(2) The insurance provided is primary and no insurance held or owned by Owner may be called upon to contribute to a loss.

(3) This policy does not exclude explosion, collapse, underground excavation hazard, or removal of lateral support.

(E) **Subcontractors.** Contractor must ensure that each Subcontractor is required to maintain the same insurance coverage required under this Section 4.3, with respect to its performance of Work on the Project, including those requirements related to the additional insureds and waiver of subrogation.

**4.4 Warranty Bond.** As a condition precedent to Final Completion, Contractor must submit a warranty bond, using the form provided by Owner, to guarantee its Work as specified in Article 11, Completion and Warranty Procedures. The warranty bond must be issued by a surety admitted in California for 50% of the final Contract Price or as otherwise specified in the Contract Documents. If an issuing surety cancels the bond or becomes insolvent, within seven days following written notice from Owner, Contractor must substitute a surety acceptable to Owner.

## **Article 5 Contract Time**

**5.1 Time is of the Essence.** Time is of the essence in Contractor's performance and completion of the Work, and Contractor must diligently prosecute the Work and complete it within the Contract Time.

(A) **General.** Contractor must commence the Work on the date indicated in the notice to proceed, and must fully complete the Work, in strict compliance with all requirements of the Contract Documents, and within the Contract Time.

(B) **Rate of Progress.** Contractor and its Subcontractors must, at all times, provide workers, materials, and equipment sufficient to maintain the rate of progress necessary to ensure full completion of the Work within the

Contract Time. If Owner determines that Contractor is failing to prosecute the Work at a sufficient rate of progress, Owner may, in its sole discretion, direct Contractor to provide additional workers, materials, or equipment, or to work additional hours or days without additional cost to Owner, in order to achieve a rate of progress satisfactory to Owner. If Contractor fails to comply with Owner's directive in this regard, Owner may, at Contractor's expense, separately contract for additional workers, materials, or equipment or use Owner's own forces to achieve the necessary rate of progress. Alternatively, Owner may terminate the Contract based on Contractor's default.

**5.2 Schedule Requirements.** All schedules must be prepared using standard scheduling software acceptable to Architect/Engineer, and must provide schedules in electronic and paper form as requested.

(A) ***As-Planned (Baseline) Schedule.*** Within 15 calendar days following issuance of the notice of award (or as otherwise specified in the Special Conditions), Contractor must submit to Owner for review and approval an as-planned (baseline) schedule showing in detail how Contractor plans to perform and fully complete the Work within the Contract Time using critical path methodology. The as-planned schedule must include the work of all trades required for the Work, and must be sufficiently comprehensive and detailed to enable progress to be monitored on a day-by-day basis. For each activity, the as-planned schedule must be dated, provided in the format specified in the Contract Documents or as required by the Architect/Engineer, and must include, at a minimum, a description of the activity, the start and completion dates, and the duration.

(B) ***Progress Schedules.*** Contractor must submit an updated progress schedule and three-week look-ahead schedule, in the format specified by Architect/Engineer, for review and approval with each application for a progress payment. The progress schedule must show how the actual progress of the Work to date compared to the as-planned schedule, and must identify any actual or potential impacts to the critical path.

(C) ***Recovery Schedule.*** If Owner determines that the Work is more than one week behind schedule, within seven days following written notice of such determination, Contractor must submit a recovery schedule, showing how the Contractor intends to perform and complete the Work within the Contract Time, based on actual progress to date.

(D) ***Effect of Approval.*** Contractor and its Subcontractors must perform the Work in accordance with the most current approved schedule unless otherwise directed by Owner. Owner's approval of a schedule does



not operate to extend the time for completion of the Work or any component of the Work, and will not affect Owner's right to assess liquidated damages for Contractor's unexcused delay in completing the Work within the Contract Time.

(E) **Posting.** Contractor must at all times maintain a copy of the most current approved progress or recovery schedule posted prominently in its on-site office.

(F) **Reservation of Rights.** Owner reserves the right to direct the sequence in which the Work must be performed or to make changes in the sequence of the Work in order to facilitate the performance of work by Owner or others, or to facilitate Owner's use of its property. The Contract Time or Contract Price may be adjusted to the extent such changes in sequence actually increase or decrease Contractor's time or cost to perform the Work.

(G) **Authorized Working Days and Times.** Contractor is limited to working Monday through Friday, excluding City of Morgan Hill-observed holidays, during Owner's normal business hours, except as expressly provided in the Special Conditions, or as authorized in writing by Owner. Owner reserves the right to charge Contractor for additional costs incurred by Owner due to Work performed on days or during hours not expressly authorized in these Contract Documents, including reimbursement of costs incurred for inspection, testing, and construction management services.

### 5.3 Delay and Extensions of Contract Time.

(A) **Excusable Delay.** The Contract Time may be extended if Contractor encounters an unavoidable delay in completing the Work within the Contract Time due to causes completely beyond Contractor's control, and which Contractor could not have avoided or mitigated through planning, foresight, and diligence ("Excusable Delay"). Grounds for Excusable Delay may include fire, earthquake, acts of terror or vandalism, epidemic, unforeseeable adverse government actions, unforeseeable actions of third parties, encountering unforeseeable hazardous materials, unforeseeable site conditions, suspension for convenience under Article 13, or unusually severe weather.

(B) **Non-Excusable Delay.** Excusable Delay does not include delay that is concurrent with non-Excusable Delay, and does not include delay caused by:

(1) weather conditions which are normal for the location of the Project, as determined by reliable records, including monthly rainfall averages, for the preceding ten years;

(2) Contractor's failure to order equipment and materials sufficiently in advance of the time needed for timely completion of the Work;

(3) Contractor's failure to provide adequate notification to utility companies for connections or services necessary for the timely performance and completion of the Work;

(4) foreseeable conditions Contractor could have ascertained from reasonably diligent inspection of the Worksite or review of the Contract Documents; or

(5) Contractor's financial inability to perform the Work, including insufficient funds to pay its Subcontractors or suppliers.

(C) ***Request for Extension of Contract Time.*** A request for an extension of time and associated delay costs must be submitted in writing to Architect/Engineer within ten calendar days of the date the delay is first encountered, even if the duration of the delay is not yet known at that time, or shall be deemed waived. In addition to complying with the requirements of this Article 5, the request must be submitted in compliance with the Change Order request procedures in Article 6, below. Strict compliance with these requirements is necessary to ensure that any delay or delay costs may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project and timely performance of the Work. Any request for an extension of time or delay costs that does not strictly comply with the requirements of Article 5 and Article 6 will be deemed waived.

(1) ***Required Contents.*** The request must include a detailed description of the cause(s) of the delay, and must also describe the measures that Contractor has taken to mitigate the delay and/or its effects, including efforts to mitigate the cost impact of the delay, e.g., by workforce management, change in sequencing, etc. If the delay is still ongoing at the time the request is submitted, the request should also include Contractor's plan for continued mitigation of the delay or its effects.

(2) ***Delay Days and Costs.*** The request must specify the number of days of Excusable Delay claimed, or provide a realistic estimate if the duration of the delay is not yet known. The request must specify the amount of any delay-related costs that are claimed, or

provide a realistic estimate if the amount is not yet known. Any estimate of delay duration or cost must be updated in writing and submitted with all required supporting documentation as soon as the actual time and cost is known.

(3) *Supporting Documentation.* The request must also include any and all supporting documentation necessary to evidence the delay and its actual impacts, including schedule and cost impacts, including a time impact analysis using critical path methodology, and demonstrating unavoidable delay to Final Completion. The time impact analysis must be submitted in a form or format acceptable to Owner.

(4) *Burden of Proof.* Contractor has the burden of proving 1) that the delay was an Excusable Delay, as defined above, 2) that Contractor has made reasonable efforts to mitigate the delay and its schedule and cost impacts, 3) that the delay will unavoidably result in delaying Final Completion, and 4) that any delay costs claimed by Contractor were actually incurred and were reasonable under the circumstances.

(5) *Recoverable Costs.* If Contractor is granted an extension of time for Excusable Delay, recompense for delay costs shall be limited to actual, direct, reasonable, and substantiated costs, and will not include home office overhead, or markup for overhead and profit.

(6) *Legal Compliance.* Nothing in this provision is intended to require the waiver, alteration, or limitation of the applicability of Public Contract Code Section 7102.

(7) *No Waiver.* Any grant of an extension of time or delay costs due to an Excusable Delay will not operate as a waiver of Owner's right to assess liquidated damages for unexcused delay.

(8) *Dispute Resolution.* In the event of a dispute over entitlement to an extension of time or delay costs, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work. Contractor's sole recourse for an unresolved dispute based on Owner's rejection of a Change Order request for an extension of time or delay costs is to comply with the Dispute Resolution provisions set forth in Article 12, below.

**5.4 Liquidated Damages.** It is expressly understood that if Final Completion is not achieved within the Contract Time, Owner will suffer damages which

are difficult to determine and accurately specify. If Contractor fails to achieve Final Completion within the Contract Time, Owner may charge Contractor in the amount specified in the Contract for each day that Final Completion is delayed beyond the Contract Time, as liquidated damages and not as a penalty.

(A) **Liquidated Damages.** Liquidated damages will not be assessed for any Excusable Delay, as set forth above.

(B) **Milestones.** Liquidated damages may also be separately assessed for failure to meet milestones specified elsewhere in the Contract Documents, regardless of impact on Contract Time and Final Completion.

(C) **Setoff.** Owner is entitled to set off the amount of liquidated damages assessed against any payments otherwise due to Contractor, including setoff against release of retention. If there are insufficient Contract funds remaining to cover the full amount of liquidated damages assessed, Owner is entitled to recover the balance from Contractor or its performance bond surety.

(D) **Occupy or Use.** Occupancy or use of the Project in whole or in part prior to Final Completion will not operate as a waiver of Owner's right to assess liquidated damages for Contractor's unexcused delay in achieving Final Completion.

## **Article 6**

### **Contract Modification**

**6.1 Changes in Work.** Owner reserves the right to make changes in the Work without invalidating the Contract. Owner may direct or Contractor may request changes in the Work, and any such changes will be formalized in a Change Order, which may include commensurate changes in the Contract Price or Contract Time as applicable. Contractor must promptly comply with Owner-directed changes in the Work in accordance with the intent of the original Contract Documents, even if Contractor and Owner have not yet reached agreement as to adjustments to the Contract Price or Contract Time.

(A) **Owner-Directed Change.** In the event of a dispute over entitlement to or the amount of a change in Contract Time or a change in Contract Price related to an Owner-directed change, Contractor must perform the Work as directed and may not delay its work or cease work pending resolution of the dispute, but must continue to comply with its duty

to diligently prosecute the performance and timely completion of the Work, including the Work in dispute.

(B) **Contractor's Obligations.** In the event that Owner and Contractor dispute whether a portion or portions of the Work are already required by the Contract Documents as opposed to changed or extra Work, Contractor must perform the Work as directed and may not delay its Work or cease Work pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work, including the Work in dispute.

(C) **Remedy for Non-Compliance.** Contractor's failure to promptly comply with an Owner-directed change is deemed a material breach of the Contract, and in addition to all other remedies available to it, Owner may, at its sole discretion, hire another contractor or use its own forces to complete the disputed Work at Contractor's sole expense, and may deduct the cost from the Contract Price.

(D) **Dispute Resolution.** Contractor's sole recourse for an unresolved dispute related to changes in the Work is to comply with the dispute resolution provisions set forth in Article 12, below.

**6.2 Contractor Change Order Requests.** Contractor must submit a request or proposal for a change in the Work or a change in the Contract Price or Contract Time as a written Change Order request or proposal.

(A) **Time for Submission.** Any request for a change in the Contract Price must be submitted in writing to Architect/Engineer within ten calendar days of the date that Contractor first encounters the circumstances, information or conditions giving rise to the Change Order request, even if the total amount of the requested change in the Contract Price or impact on the Contract Time is not yet known at that time.

(B) **Required Contents.** Any Change Order request or proposal submitted by Contractor must include a complete breakdown of actual or estimated costs and credits, and must itemize labor, materials, equipment, taxes, insurance, and subcontract amounts. Any estimated cost must be updated in writing as soon as the actual amount is known.

(C) **Required Documentation.** All claimed costs must be fully documented, and any related request for an extension of time or delay-related costs must be included at that time and in compliance with the requirements of Article 5 of the General Conditions.

(D) **Required Form.** Contractor must use Owner's form(s) for submitting all Change Order requests or proposals, unless otherwise specified by Owner.

(E) **Certification.** All Change Order requests must be signed by Contractor and must include the following certification:

"The undersigned Contractor certifies under penalty of perjury that its statements and representations in this Change Order request are true and correct. Contractor warrants that this Change Order request is comprehensive and complete, and agrees that any costs, expenses, or time extension request not included herein shall be deemed waived. Contractor understands that submission of claims which have no basis in fact or which Contractor knows to be false may violate the False Claims Act, as set forth in Government Code Sections 12650 et seq."

**6.3 Adjustments to Contract Price.** The amount of any increase or decrease to the Contract Price will be determined based on one of the following methods in the order provided:

(A) **Unit Pricing.** Amounts previously provided by Contractor in the form of unit prices, the schedule of values, or Allowances, will apply first if unit pricing, a schedule of values, or an Allowance amount has previously been submitted for the affected Work; or, if none

(B) **Lump Sum.** A mutually agreed upon lump sum; or, if none

(C) **Time and Materials.** On a time and materials basis, which may include a not-to-exceed limit, calculated as the total of the following sums:

(1) All direct labor costs plus 15% for overhead and profit;

(2) All direct material costs, including sales tax, plus 15% for overhead and profit;

(3) All direct plant and equipment rental costs, plus 15% for overhead and profit;

(4) All direct subcontract costs plus 10% for overhead and profit; and

(5) Increased premium costs computed at 1½ % of total of the previous four sums.

- 6.4 Unilateral Change Order.** If Owner disagrees with the amount of compensation or extension of time that Contractor has requested, Owner may elect to issue a unilateral Change Order, directing performance of the Work, and authorizing a change in the Contract Price or Contract Time in the amount Owner believes is merited. Contractor's sole recourse to dispute the terms of a unilateral Change Order is to submit a timely Claim pursuant to Article 12, below.
- 6.5 Non-Compliance Deemed Waiver.** Contractor waives its entitlement to any increase in the Contract Price or Contract Time if Contractor fails to full comply with the provisions of this Article. Contractor will not be paid for unauthorized extra work.

## **Article 7**

### **General Construction Provisions**

#### **7.1 Permits and Taxes.**

(A) **General.** Contractor must obtain and pay for any and all permits, fees, or licenses required to perform the Work, unless otherwise indicated in the Contract Documents. Contractor must cooperate with and provide notifications to government agencies with jurisdiction over the Project, as may be required. Contractor must provide Owner with copies of all notices, permits, licenses, and renewals required for the Work.

(B) **Federal Excise Tax.** Contractor must pay for all taxes on labor, material and equipment, except Federal Excise Tax to the extent that Owner is exempt from Federal Excise Tax.

#### **7.2 Temporary Facilities.** Contractor must provide, at Contractor's sole expense, any and all temporary facilities, including onsite office, sanitary facilities, storage, scaffolds, barricades, walkways, and any other temporary structure required to safely perform the Work along with any utility services incidental thereto.

(A) **Standards.** Such structures must be safe and adequate for the intended use, and installed and maintained in accordance with all applicable federal, state, and local laws, codes, and regulations.

(B) **Removal and Repair.** Contractor must promptly remove all such temporary facilities when they are no longer needed or upon completion of the Work, whichever comes first. Contractor must promptly repair any damage to Owner's property caused by the installation, use, or removal of the temporary facilities, and must promptly restore the property to its original or intended condition.

(C) **Additional Requirements.** Additional provisions pertaining to temporary facilities may be included in the Specifications or Special Conditions.

**7.3 Signs.** No signs may be displayed on or about Owner's property, except signage which is required by law or by the Contract Documents, without Owner's prior written approval as to content, size, design, and location.

**7.4 Protection of Work and Property.**

(A) **General.** Contractor is responsible at all times for protecting the Work and materials and equipment to be incorporated into the Work from damage until the Notice of Completion has been recorded. Except as specifically authorized by Owner, Contractor must confine its operations to the area of the Project site indicated in the Drawings. Contractor is liable for any damage caused to Owner's real or personal property, the real or personal property of adjacent property owners, or the work or personal property of other contractors working for Owner.

(B) **Unforeseen Conditions.** If Contractor encounters facilities, utilities, or other unknown conditions not shown on or reasonably inferable from the Drawings or apparent from inspection of the Project site, Contractor must promptly notify Architect/Engineer, and must avoid taking any action which could cause damage to the facilities or utilities pending further direction from the Architect/Engineer. If Architect/Engineer's subsequent direction to Contractor affects Contractor's cost or time to perform the Work, Contractor may submit a Change Order request as set forth in Article 6, above.

(C) **Support; Adjacent Properties.** Contractor must provide, install, and maintain all shoring, bracing, underpinning, etc., necessary to provide support to Owner's property and adjacent properties and improvements thereon. Contractor must provide notifications to adjacent property owners as may be required by law.

(D) **Damage to Existing Facilities.** Any existing facilities that are broken or damaged by the installation of Work shall be repaired or replaced with the same kind of material, the same finish, and in not less than the same dimensions as the original work. All such repairs or replacements shall match the appearance of the existing facilities as nearly as possible.

**7.5 Noninterference.** Contractor must take reasonable measures to avoid interfering with Owner's use of its property at or adjacent to the Project



site, including use of roadways, entrances, parking areas, walkways, and structures.

## **7.6 Materials and Equipment.**

(A) **General.** Unless otherwise specified, all materials and equipment required for the Work must be new and of the best grade for the intended purpose, and furnished in sufficient quantities to ensure the proper and expeditious performance of the Work. Unless otherwise specified, all materials and equipment required for the Work are deemed to include all components required for complete installation and intended operation, and must be installed in accordance with the manufacturer's recommendation. Contractor is responsible for all shipping, handling, and storage costs associated with the materials and equipment required for the Work, and is responsible for protecting the Work and all of the required materials, supplies, tools and equipment at Contractor's sole cost until Owner accepts the Project.

(B) **Owner-Provided.** If the Work includes installation of materials or equipment to be provided by Owner, Contractor is solely responsible for the proper examination, handling, storage, and installation of such items in accordance with the Contract Documents. Contractor must promptly notify Owner of any defects discovered in Owner-provided materials or equipment. Contractor is solely responsible for any loss of or damage to such items which occurs while the items are in Contractor's custody and control, the cost of which may be offset from the Contract Price and deducted from any payment(s) due to Contractor.

(C) **Domestic Materials.** Only unmanufactured materials that have been produced in the United States, and only manufactured materials that have been manufactured in the United States may be used for this Project, as required by Government Code Section 4300 et seq.

(D) **Intellectual Property Rights.** Contractor must, at its sole expense, obtain any authorization required for use of patented or copyright protected materials, equipment, devices or processes that are incorporated into the Work. Contractor's indemnity obligation in Article 4, applies to any claimed violation of intellectual property rights in violation of this provision.

## **7.7 Substitutions.**

(A) **"Or Equal."** Any specification designating a material, product, thing, or service by specific brand or trade name, followed by the words "or equal," is intended only to indicate quality and type of item desired, and

Contractor may request use of any equal material, product, thing, or service.

(B) **Request for Substitution.** A request for substitution must be submitted to Architect/Engineer for approval within the applicable time period provided in the Contract Documents. If no time period is specified, the substitution request may be submitted any time within 35 days after the date of award of the Contract, or sufficiently in advance of the time needed to avoid delay of the Work, whichever is earlier.

(C) **Substantiation.** All data substantiating the proposed substitute as an "equal" item must be submitted with the written request for substitution. Contractor's failure to timely provide necessary substantiation is ground for rejection of the proposed substitution, without further review.

(D) **Burden of Proving Equality.** Contractor has the burden of proving the equality of the proposed substitution. Architect/Engineer has sole discretion to determine whether a proposed substitution is "equal," and Architect/Engineer's determination is final.

(E) **Approval or Rejection.** If the proposed substitution is approved, Contractor is solely responsible for any additional costs associated with the substituted item(s). If the proposed substitution is rejected, Contractor must, without delay, install the item specified.

(F) **Contractor's Obligations.** Architect/Engineer's review of a proposed substitution will not relieve Contractor from any of its obligations under the Contract Documents. In the event Contractor makes an unauthorized substitution, Contractor will be solely responsible for all resulting cost impacts, including the cost of removal and replacement and the impact to other design elements.

## **7.8 Testing and Inspection.**

(A) **General.** All materials, equipment, and workmanship used in the Work are subject to inspection by Inspector at all times and locations during construction and/or fabrication. All manufacturers' application or installation instructions must be provided to the Inspector at least ten days prior to the first such application or installation. Contractor must, at all times, make the Work available for inspection.

(B) **Scheduling and Notification.** Contractor must schedule all tests required by the Contract Documents in time to avoid any delay to the progress of the Work. Contractor must provide timely notice to all necessary parties as specified in the Contract Documents.

(C) **Responsibility for Costs.** Owner will bear the initial cost of testing to be performed by independent testing consultants retained by Owner, subject to the following exceptions:

(1) Contractor will be responsible for the costs of any subsequent tests which are required to substantiate compliance with the Contract Documents, and any associated remediation costs.

(2) Contractor will be responsible for inspection costs, at Owner's established rates, for inspection time lost because the Work is not ready or Contractor fails to appear for a scheduled inspection.

(3) In addition, if any portion of the Work which is subject to testing is covered or concealed by Contractor prior to testing, Contractor will bear the cost of making that portion of the Work available for the testing required by the Contract Documents, and any associated repair or remediation costs.

(D) **Contractor's Obligations.** Any Work that fails to comply with the requirements of the Contract Documents must be promptly repaired, replaced, or corrected by Contractor, at Contractor's sole expense, even if that Work was previously inspected or included in a progress payment. Contractor is solely responsible for any delay occasioned by remediation of noncompliant Work. Inspection of the Work does not in any way relieve Contractor of its obligations to perform the Work as specified.

(E) **Distant Locations.** If required off-site testing or inspection must be conducted at a location more than 100 miles from the Project site, Contractor is solely responsible for the additional travel costs required for testing and/or inspection at such locations.

(F) **Final Inspection.** The provisions of this Section 7.8 apply to final inspection under Article 11, Completion and Warranty Provisions.

**7.9 Clean up.** Contractor must regularly remove debris and waste materials and maintain the Worksite in clean and neat condition.

(A) **General.** Prior to discontinuing work in an area, Contractor must clean the area and remove all rubbish along with its construction equipment, tools, machinery, waste and surplus materials. Contractor must, at all times, minimize and confine dust and debris resulting from construction activities.

(B) **Completion.** At the completion of the Work, Contractor must remove from the Worksite all of its equipment, tools, surplus materials, waste materials and debris. Before demobilizing from the Worksite,

Contractor must ensure that all surfaces are cleaned, sealed, waxed, or finished as applicable, and that all marks, stains, paint splatters, and the like have been properly removed from the completed Work and the surrounding areas.

(C) **Non-Compliance.** If Contractor fails to commence compliance with its cleanup obligations within two business days following written notification from Owner or its representative, Owner may undertake appropriate cleanup measures without further notice and the cost will be deducted from any amounts due or to become due the Contractor.

**7.10 Instructions and Manuals.** Contractor must provide three copies each of all instructions and manuals required by the Contract Documents, unless otherwise specified. These must be complete as to drawings, details, parts lists, performance data, and other information that may be required for Owner to easily maintain and service the materials and equipment installed for this Project.

(A) **Submittal Requirements.** All manufacturers' application or installation instructions must be provided to the Inspector at least ten days prior to the first such application. The instructions and manuals, along with any required guarantees, must be delivered to the Architect/Engineer for review.

(B) **Instruction of Personnel.** Contractor or its Subcontractors must instruct Owner's personnel in the operation and maintenance of any complex equipment as a condition precedent to Final Completion, if required in the Contract Documents.

**7.11 As-built Drawings.** Contractor and its Subcontractors must maintain on the Worksite a separate complete set of the Drawings which will be used solely for the purpose of recording changes made in any portion of the Work in order to create accurate record drawings at the end of the Project.

(A) **Duty to Update.** The as-built drawings must be updated as changes occur, on a daily basis if necessary. Progress payments may be delayed, in whole or in part, until the as-built drawings are brought up to date to the satisfaction of the Architect/Engineer. Actual locations to scale must be identified on the as-built drawings for all runs of mechanical and electrical work, including all site utilities, etc., installed underground, in walls, floors, or otherwise concealed. Deviations from the original Drawings must be shown in detail. The location of all main runs, whether piping, conduit, ductwork, drain lines, etc., must be shown by dimension and elevation.

(B) **Final Completion.** Contractor must verify that all changes in the Work are depicted in the as-built drawings and must deliver the complete set of as-built drawings to the Owner and Architect/Engineer for review and approval as a condition precedent to Final Completion.

**7.12 Existing Utilities.** As required by Government Code Section 4215, if, during the performance of the Work, Contractor discovers utility facilities not identified by Owner in the Contract Documents, Contractor must immediately provide written notice to Owner and the utility. Owner assumes responsibility for the timely removal, relocation, or protection of existing main or trunkline utility facilities located on the Project site, if those utilities are not identified in the Contract Documents. Contractor will be compensated in accordance with the provisions of the Contract Documents for the costs of locating, repairing damage not due to Contractor's failure to exercise reasonable care, and removing or relocating such utility facilities not indicated in the Drawings or Specifications with reasonable accuracy, and for equipment on the Project necessarily idled during such work. Contractor will not be assessed liquidated damages for delay in completion of the Work, to the extent such delay was caused by Owner's failure to provide for removal or relocation of the utility facilities.

**7.13 Notice of Excavation.** Government Code Section 4216.2, requires that except in an emergency, Contractor must contact the appropriate regional notification center, or Underground Services Alert at 800-642-2444 (for Northern California), at least two working days, but not more than 14 calendar days before starting any excavation if the excavation will be conducted in an area that is known, or reasonable should be known, to contain subsurface installations, and if practical, Contractor must delineate with white paint or other suitable markings the area to be excavated.

**7.14 Trenching and Excavations.**

(A) **Duty to Notify.** Contractor must promptly, and before the following conditions are disturbed, provide written notice to Owner if the Contractor finds any of the following conditions:

(1) Material that Contractor believes may be a hazardous waste, as defined in Section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with the provisions of existing law;

(2) Subsurface or latent physical conditions at the Worksite differing from those indicated by information about the Worksite made available to bidders prior to the deadline for submitting bids;  
or

(3) Unknown physical conditions at the Worksite of any unusual nature, differing materially different from those ordinarily encountered and generally recognized as inherent in work of the character required by the Contract Documents.

(B) **Owner Investigation.** Owner will promptly investigate the conditions and if Owner finds that the conditions do materially differ or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the Work, Owner will issue a Change Order.

(C) **Disputes.** In the event that a dispute arises between the Owner and the Contractor regarding any of the conditions specified in subsection (A) above, Contractor will not be excused from any scheduled completion date provided for in the Contract Documents, but must proceed with all Work to be performed under the Contract. Contractor will retain any and all rights provided either by the Contract or by law which pertain to the resolution of disputes between Contractor and Owner.

**7.15 Trenching of Five Feet or More.** As required by Labor Code Section 6705, if the Contract Price exceeds \$25,000 and the Work includes the excavation of any trench or trenches of five feet or more in depth, a detailed plan must be submitted to Owner or its civil or structural engineer, for acceptance in advance of the excavation. The detailed plan must show the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation. If the plan varies from the shoring system standards, it must be prepared by a registered civil or structural engineer. Use of a shoring, sloping, or protective system less effective than that required by the Construction Safety Orders is prohibited.

**7.16 New Utility Connections.** Owner will pay connection charges and meter costs for new permanent utilities required by the Contract Documents, if any. Contractor must notify Owner sufficiently in advance of the time needed to request service from each utility provider so that connections and services are initiated in accordance with the Project schedule.

**7.17 Lines and Grades.** Contractor is required to use any benchmark provided by Architect/Engineer. Unless otherwise specified in the Contract Documents, Contractor must provide all lines and grades required to execute the Work.

**7.18 Historic or Archeological Items.**

(A) **Contractor's Obligations.** Contractor must ensure that all persons performing Work at the Project site are required to immediately

notify the Inspector or Owner's Representative, upon discovery of any potential historic or archeological items, including historic or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological site, including fossilized footprints or other archeological, paleontological or historical feature on the Project site (collectively, "Historic or Archeological Items").

(B) **Discovery; Cessation of Work.** Upon discovery of any potential Historic or Archeological Items, Work must be stopped within an 85-foot radius of the find and may not resume until authorized in writing by Owner's Representative. If required by Owner, Contractor must assist in protecting or recovering the Historic or Archeological Items, any such assistance to be compensated as extra work on a time and materials basis under Article 6, Contract Modification. Any suspension of Work required due to discovery of Historic or Archeological Items will be treated as a suspension for convenience under Article 13.

**7.19 Environmental Control.** Contractor must not pollute any drainage course or its tributary inlets with fuels, oils, bitumens, acids, insecticides, herbicides or other harmful materials. Contractor and its Subcontractors shall at all times in the performance of the Work comply with all applicable federal, state, and local laws and regulations concerning pollution of waterways.

(A) **Stormwater Permit.** Contractor must comply with all applicable conditions of the State Water Resources Control Board national Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity ("Stormwater Permit").

(B) **Contractor's Obligations.** If required for the Work, a copy of the Stormwater Permit is on file in Owner's principal administrative offices, and the Contractor must comply with the same without adjustment of the Contract Price or the Contract Time. The Contractor must timely and completely submit required reports and monitoring information required by the conditions of the Stormwater Permit, the Contractor must comply with all other applicable state, municipal or regional laws, ordinances, rules or regulations governing discharge of stormwater, including applicable municipal stormwater management programs.

## **Article 8 Payment**

**8.1 Schedule of Values.** Prior to submitting its first application for payment, Contractor must prepare and submit to Owner and Architect/Engineer a schedule of values apportioned to the various divisions and phases of the

Work. Each line item contained in the schedule of values must be assigned a value such that the total of all items shall equal the Contract Price. The items must be sufficiently detailed to enable accurate evaluation of the percentage of completion claimed in each application for payment, and the assigned value consistent with any itemized or unit pricing submitted with Contractor's bid.

**8.2 Progress Payments.** Following the last day of each month, or as otherwise required by the Special Conditions or Specifications, Contractor will submit to Owner and Architect/Engineer for approval, a monthly application for payment for Work performed during the preceding month based on the estimated value of the Work performed during that preceding month.

(A) ***Application for Payment.*** Each application for payment must be itemized to include labor, materials, and equipment incorporated into the Work, and materials and equipment delivered to the Worksite, as well as authorized and approved Change Orders. Each pay application must be supported by the Contractor's schedule of values and any other substantiating data required by the Contract Documents.

**Each application for payment shall be accompanied by completed "Contract Balance Form," a copy of which is provided at the end of Article 8.**

(B) ***Payment of Undisputed Amounts.*** Owner will pay the undisputed amount due, as certified by Architect/Engineer, within thirty (30) days after Contractor has submitted a complete and accurate payment application, subject to Public Contract Code Section 20104.50. Owner will deduct a percentage from each progress payment as retention, as set forth in Section 8.5, below, and may deduct additional amounts as set forth in Section 8.3, below.

**8.3 Adjustment of Payment Application.** Owner may adjust or reject a payment application, including application for Final Payment, in whole or in part, based upon any of the circumstances listed below. Contractor will be notified in writing of the basis for the adjustment, and will be promptly paid once the basis for that adjustment has been remedied and no longer exists.

(A) Contractor's unexcused failure to perform the Work as required by the Contract Documents, including correction or completion of punch list items;



- (B) Loss or damage caused by Contractor or its Subcontractor(s) arising out of or relating to performance of the Work;
- (C) Contractor's failure to pay its Subcontractors and suppliers when payment is due;
- (D) Failure to timely correct rejected, nonconforming, or defective Work;
- (E) Unexcused delay in performance of the Work;
- (F) Any unreleased stop notice, retained as 125% of the amount claimed;
- (G) Failure to submit any required schedule or schedule update in the manner and within the time specified in the Contract Documents;
- (H) Failure to maintain or submit as-built documents in the manner and within the time specified in the Contract Documents;
- (I) Work performed without approved Shop Drawings, when approved Shop Drawings are required before proceeding with the Work;
- (J) Contractor's payroll records are delinquent or inadequate; and
- (K) Any other costs or charges that may be offset against payments due, as provided in the Contract Documents, including liquidated damages.

**8.4 Acceptance of Work.** Neither Owner's payment of progress payments nor its partial or full use or occupancy of the Project constitutes acceptance of any part of the Work.

**8.5 Retention.** Owner will retain five percent of the amount due on each progress payment, or the percentage stated in the Notice Inviting Bids, whichever is greater, as retention to ensure full and satisfactory performance of the Work.

(A) ***Substitution of Securities.*** As provided by Public Contract Code Section 22300, Contractor may request in writing that it be allowed, at its sole expense, to substitute securities for the retention withheld by Owner. Any escrow agreement entered into pursuant to this provision will fully comply with Public Contract Code Section 22300, and will be subject to approval as to form by Owner's legal counsel.

(B) **Release of Undisputed Retention.** All undisputed retention, less any amounts that may be assessed as liquidated damages, retained for stop notices, or otherwise withheld under Section 8.3 or 8.6 will be released as Final Payment to Contractor no sooner than 35 days following recordation of the notice of completion, and no later than 60 days following acceptance of the Project by Owner's governing body or authorized designee, or, if the Project has not been accepted, no later than 60 days after the Project is otherwise considered complete under Public Contract Code Section 7107(c).

**8.6 Setoff.** Owner is entitled to set off any amounts due from Contractor against any payments due to Contractor. Owner's entitlement to setoff includes progress payments as well as Final Payment and release of retention.

**8.7 Payment to Subcontractors and Suppliers.** Each month, Contractor must promptly pay each Subcontractor and supplier the value of the portion of labor, materials, and equipment incorporated into the Work or delivered to the Worksite by the Subcontractor or supplier during the preceding month. Such payments must be made in accordance with the requirements of the law, and those of the Contract Documents and applicable subcontract or supplier contract.

(A) **Withholding for Stop Notice.** Owner will withhold 125% of the amount claimed by an unreleased stop notice, a portion of which may be retained by Owner for the costs incurred in handling the stop notice claim, including attorneys' fees and costs, as authorized by law.

(B) **Joint Checks.** Owner reserves the right to issue joint checks made payable to the Contractor and its Subcontractors or suppliers. As a condition to release of payment by a joint check, the joint check payees may be required to execute a joint check agreement in a form provided or approved by Owner. The joint check payees will be jointly and severally responsible for the allocation and disbursement of funds paid by joint check. Payment by joint check will not be construed to create a contractual relationship between Owner and a Subcontractor or supplier of any tier beyond the scope of the joint check agreement.

**8.8 Final Payment.** Final Completion, acceptance of the Work by Owner, and recordation of the Notice of Completion, and any release required by the Contract Documents are conditions precedent to Final Payment and release of undisputed retention, as set forth above. Contractor's application for Final Payment must comply with the requirements for submitting an application for a progress payment as stated in Section 8.2, above. Corrections to previous progress payments, including adjustments to estimated quantities for unit priced items, may be included in the Final

Payment. The date of Final Payment is deemed to be effective on the date that Owner acts to release retention as final payment to Contractor, or otherwise provides written notice to Contractor of Final Payment. If the amount due from Contractor to Owner exceeds the amount of Final Payment, Owner retains the right to recover the balance from Contractor or its sureties.

**8.9 Release of Claims.** Owner may, at any time, require that payment of the undisputed portion of any progress payment or Final Payment be contingent upon Contractor furnishing Owner with a written release of all claims against Owner arising from or related to the portion of Work covered by those undisputed amounts. Any disputed amounts may be specifically excluded from the release.

**8.10 Warranty of Title.** Contractor warrants that title to all work, materials, or equipment incorporated into the Work and included in a request for payment will pass over to Owner free of any claims, liens, or encumbrances upon payment to Contractor.

## CONTRACT BALANCE FORM

**Project Name: 2015 Pavement Resurfacing Project**

*Note: A detailed invoice MUST be attached to this Contract Balance Form.*

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CONTRACTOR NAME: _____	DATE: _____
MAILING ADDRESS: _____	TELEPHONE NO.: _____
_____	FAX NO.: _____
_____	PROJECT NO.: _____
	INVOICE NO.: _____

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- |                                                  |            |               |
|--------------------------------------------------|------------|---------------|
| 1. ORIGINAL CONTRACT AMOUNT:                     | \$_____    |               |
| 2. APPROVED CHANGE ORDERS TOTAL:                 | \$_____    |               |
| 3. REVISED CONTRACT AMOUNT:                      |            | (1+2) \$_____ |
| 4. PREVIOUS BALANCE PAID:                        | \$_____    |               |
| 5. REMAINING BALANCE:                            |            | (3-4) \$_____ |
| 6. CURRENT PROGRESS PAYMENT DUE:                 | \$_____    |               |
| <i>(before retention)</i>                        |            |               |
| 7. 5% RETENTION FROM WORK DONE:                  | (-)\$_____ |               |
| 8. CURRENT BALANCE DUE:                          |            | (6-7) \$_____ |
| 9. REMAINING BALANCE OF REVISED CONTRACT AMOUNT: |            | (5-8) \$_____ |
| <i>(including retention)</i>                     |            |               |

## **Article 9**

### **Labor Provisions**

- 9.1 Discrimination Prohibited.** Discrimination against any prospective or present employee engaged in the Work on grounds of race, color, ancestry, national origin, ethnicity, religion, sex, sexual orientation, age, disability, or marital status is strictly prohibited. Contractor and its Subcontractors are required to comply with all applicable Federal and California laws including the California Fair Employment Practice Act, Government Code Sections 12900 et seq., Government Code Section 11135, and Labor Code Sections 1735, 1777.5, 1777.6, and 3077.5.
- 9.2 Labor Code Requirements.**
- (A) ***Eight Hour Day.*** Under Labor Code Section 1810, eight hours of labor constitute a legal day's work under this Contract.
- (B) ***Penalty.*** Under Labor Code Section 1813, Contractor will forfeit to Owner as a penalty, the sum of \$25.00 for each day during which a worker employed by Contractor or any Subcontractor is required or permitted to work more than eight hours in any one calendar day or more than 40 hours per calendar week, except if such workers are paid overtime under Labor Code Section 1815.
- (C) ***Apprentices.*** Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code Section 1777.5, which is fully incorporated by reference.
- (D) ***Notices.*** Under Labor Code Section 1771.4, Contractor is required to post all job site notices prescribed by law or regulation.
- 9.3 Prevailing Wages.** Each worker performing Work under this Contract that is covered under Labor Code Section 1720, including cleanup at the Project site, must be paid at a rate not less than the prevailing wage as defined in Sections 1771 and 1774 of the Labor Code. The prevailing wage rates are available online at <http://www.dir.ca.gov/dlsr>. Contractor must post a copy of the applicable prevailing rates at the Worksite.
- (A) ***Penalties.*** Under Labor Code Section 1775, Contractor and any Subcontractor will forfeit to Owner as a penalty up to \$200.00 for each calendar day, or portion a day, for each worker paid less than the applicable prevailing wage rate. Contractor must also pay each worker the difference between the applicable prevailing wage rate and the amount actually paid to that worker.

(B) **Federal Requirements.** If this Project is subject to Federal prevailing wage requirements in addition to California prevailing wage requirements, Contractor and its Subcontractors are required to pay the higher of the current applicable prevailing wage rates under federal law, available online at <http://www.access.gpo.gov/davisbacon/ca.html>, or under California law, available online at <http://www.dir.ca.gov/DLSR>.

**9.4 Payroll Records.** Contractor must comply with the provisions of Labor Code Sections 1776 and 1812, which are fully incorporated by this reference.

(A) **Contractor and Subcontractor Obligations.** Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

- (1) The information contained in the payroll record is true and correct.
- (2) The Contractor or Subcontractor has complied with the requirements of Labor Code Sections 1771, 1811, and 1815 for any Work performed by its employees on the Project.

(B) **Certified Record.** A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to Owner, or to the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations, and as further provided by the Labor Code.

(C) **Enforcement.** Upon notice of noncompliance with Labor Code Section 1776, Contractor or Subcontractor has ten days in which to comply with requirements of this section. If Contractor or Subcontractor fails to do so within the ten day period, Contractor or Subcontractor will forfeit a penalty of \$100.00 per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from progress payments then due.

**9.5 Labor Compliance.** Under Labor Code section 1771.4, the Contract for this Project, if awarded on or after January 15, 2015, is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

## **Article 10 Safety Provisions**

**10.1 Safety Precautions and Programs.** Contractor and its Subcontractors are fully responsible for safety precautions and programs, and for the safety of persons and property in the performance of the Work.

Contractor and its Subcontractors must comply with all applicable safety laws, rules and regulations and seek to avoid injury, loss, or damage to persons or property by taking reasonable steps to protect its employees and other persons at the Worksite, materials and equipment stored on or off site, and property at or adjacent to the Worksite.

(A) **Reporting Requirements.** Contractor must immediately provide a written report to Owner of all recordable accidents and injuries occurring at the Worksite. If Contractor is required to file an accident report with a government agency, Contractor will provide a copy of the report to Owner.

(B) **Legal Compliance.** Contractor's safety program must comply with the applicable legal and regulatory requirements. Contractor must provide Owner with copies of all notices required by law or regulation.

(C) **Contractor's Obligations.** Any damage or loss caused by Contractor arising from the Work which is not insured under property insurance must be promptly remedied by Contractor.

(D) **Remedies.** If Owner determines, in its sole discretion, that any part of the Work or Worksite is unsafe, Owner may, without assuming responsibility for Contractor's safety program, require Contractor or its Subcontractor to cease performance of the Work or to take corrective measures to the Owner's satisfaction. If Contractor fails to promptly take the required corrective measures, Owner may perform them and deduct the cost from the Contract Price. Contractor agrees it is not entitled to submit a Claim for damages, for an increase in Contract Price, or for a change in Contract Time based on Contractor's compliance with the Owner's request for corrective measures pursuant to this provision.

**10.2 Hazardous Materials.** Unless otherwise specified, this Contract does not include the removal, handling, or disturbance of any asbestos or other Hazardous Materials. If Contractor encounters materials on the Worksite that Contractor reasonably believes to be asbestos or other Hazardous Materials, and the asbestos or other Hazardous Materials have not been

rendered harmless, Contractor may continue Work in unaffected areas reasonably believed to be safe, but must immediately cease work on the area affected and report the condition to the Owner. No asbestos, asbestos-containing products or other Hazardous Materials may be used in performance of the Work.

**10.3 Material Safety.** Contractor must maintain Material Safety Data Sheets ("MSDS") at the Worksite, as required by law, for materials or substances used or consumed in the performance of the Work. The MSDS shall be accessible and available to Contractor's employees, Subcontractors, Owner, and Owner's representatives.

(A) **Contractor Obligations.** Contractor is solely responsible for the proper delivery, handling, use, storage, removal, and disposal of all materials brought to the Worksite and/or used in the performance of the Work.

(B) **Labeling.** Contractor must ensure proper labeling on any material brought onto the Worksite so that any persons working with or in the vicinity of the material may be informed as to the identity of the material, any potential hazards, and requirements for proper handling, protections, and disposal.

## **Article 11 Completion and Warranty Provisions**

### **11.1 Final Completion.**

(A) **Final Inspection.** When the Work required by this Contract is fully performed, Contractor must provide written notification to Architect/Engineer requesting final inspection. Based on this inspection, Architect/Engineer will prepare a punch list of items that are incomplete, incorrectly installed, or not operating as required by the Contract Documents. The omission of any such item from this punch list will not relieve the Contractor from fulfilling all requirements of the Contract Documents.

(B) **Punch List.** Architect/Engineer will promptly deliver the punch list to Contractor and will specify the time by which all of the punch list items must be completed or corrected. The Architect/Engineer may include Owner's estimated cost to complete each punch list item if Contractor fails to do so within the specified time.

(C) **Requirements for Final Completion.** Final Completion will be achieved upon completion or correction of all punch list items, as verified



by inspection, and upon satisfaction of all other Contract requirements, including any commissioning required under the Contract Documents, and submission of all final submittals, including a warranty bond as required under Section 4.4, instructions and manuals as required under Section 7.10, and as-built drawings as required under Section 7.11, all to Owner's satisfaction. Once Final Completion is achieved, and the Project has been formally accepted by Owner, Owner will file a notice of completion with the County Recorder.

(D) **Final Payment.** Final Payment and release of retention, less any sums withheld pursuant to the provisions of the Contract Documents, will not be made sooner than 35 days after recordation of the notice of completion. If Contractor fails to complete all of the punch list items within the specified time, Owner may elect to accept the Project and record the notice of completion, and withhold up to 150% of Owner's estimated cost to complete the remaining items from Final Payment.

## **11.2 Warranty.**

(A) **General.** Contractor warrants that all materials and equipment will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Contractor further warrants that the Work will be free from material defects not intrinsic in the design or materials required in the Contract Documents. At Owner's request, Contractor must furnish satisfactory evidence of the quality and type of materials and equipment furnished. Contractor's warranty does not extend to damage caused by normal wear and tear, or improper use or maintenance.

(B) **Warranty Period.** Contractor's warranty must guarantee its Work for a period of one year from the date of recordation of the notice of completion (the "Warranty Period"), except when a longer guarantee is provided by a supplier or manufacturer or is required by the Specifications or Special Conditions. Contractor must obtain from its Subcontractors, suppliers and manufacturers any special or extended warranties required by the Contract Documents.

(C) **Warranty Documents.** As a condition precedent to acceptance, Contractor must supply Owner with all warranty and guarantee documents relevant to equipment and materials incorporated into the Work and guaranteed by their suppliers or manufacturers.

(D) **Subcontractors.** The warranty obligations in the Contract Documents apply to Work performed by Contractor and its Subcontractors, and Contractor expressly agrees to act as co-guarantor of such Work.

(E) **Contractor's Obligations.** Upon written notice from Owner to Contractor of any defect in the Work discovered during the Warranty Period, Contractor or its responsible Subcontractor must promptly correct the defective Work at its own cost. Contractor's obligation to correct defects discovered during the Warranty Period will continue past the expiration of the Warranty Period as to any defects in Work for which Contractor was notified prior to expiration of the Warranty Period.

(F) **Owner's Remedies.** If Contractor and/or its responsible Subcontractor fails to correct defective Work within ten days following notice by Owner, or sooner, if required by the circumstances, Contractor expressly agrees that Owner may correct the defects to conform with Contract Documents at Contractor's sole expense, and Contractor agrees to reimburse Owner for its costs within 30 days following Owner's submission of a demand for payment pursuant to this provision. If Owner is required to initiate legal action to compel Contractor's compliance with this provision, and Owner is the prevailing party in such action, Contractor is solely responsible for all of Owner's attorney's fees and legal costs expended to enforce Contractor's warranty obligations herein in addition to any and all costs incurred by Owner to correct the defective Work.

**11.3 Use Prior to Final Completion.** Owner reserves the right to occupy or make use of the Project, or any portions of the Project, prior to Final Completion if Owner has determined that the Project or portion of it is in a condition suitable for the proposed occupation or use, and that it is in its best interest to occupy or make use of the Project, or any portions of it, prior to Final Completion. Owner will notify Contractor in writing of its intent to occupy or make use of the Project or any portions of the Project, pursuant to this provision.

(A) **Non-Waiver.** Occupation or use prior to Final Completion will not operate as acceptance of the Work or any portion of it, nor will it operate as a waiver of any of Owner's rights or Contractor's duties pursuant to these Contract Documents, and will not affect nor bear on the determination of the time of substantial completion with respect to any statute of repose pertaining to the time for filing an action for construction defect.

(B) **Owner's Responsibility.** Owner will be responsible for the cost of maintenance and repairs due to normal wear and tear with respect to those portions of the Project that are being occupied or used before final completion. The Contract Price or the Contract Time may be adjusted pursuant to the applicable provisions of these Contract Documents if, and only to the extent that, any occupation or use under this Section actually adds to Contractor's cost or time to perform the Work.

- 11.4 Substantial Completion.** For purposes of determining “substantial completion” with respect to any statute of repose pertaining to the time for filing an action for construction defect, “substantial completion” is deemed to mean the last date that Contractor or any Subcontractor performs Work on the Project prior to recordation of the Notice of Completion, except for warranty work performed under this Article.

## **Article 12**

### **Dispute Resolution**

- 12.1 Claims.** This Article applies to and provides the exclusive procedures for any Claim arising from or related to the Contract or performance of the Work.

(A) **Definition.** “Claim” means a separate demand by Contractor, submitted in writing, for change in the Contract Time or Contract Price that has previously been submitted to Owner in accordance with the requirements of the Contract Documents, and which has been rejected by Owner, in whole or in part.

(B) **Limitations.** A Claim may only include the portion of a previously rejected demand that remains in dispute between Contractor and Owner. With the exception of any dispute regarding the amount of money actually paid to Contractor as Final Payment, Contractor is not entitled to submit a Claim demanding a change in the Contract Time or the Contract Price, which has not previously been submitted to Owner in full compliance with Article 5 and Article 6, and subsequently rejected in whole or in part by Owner.

(C) **Scope of Article.** This Article is intended to provide the exclusive procedures for submission and resolution of Claims of any amount, and applies in addition to the provisions of Public Contract Code Sections 20104, et seq.

- 12.2 Claims Submission.** The following requirements apply to any Claim subject to this Article:

(A) **Substantiation.** The Claim must be submitted to Owner in writing and must include all of the documents necessary to substantiate the Claim including the change order request that was rejected in whole or in part, and Owner’s rejection. Any Claim for additional payment must include a complete, itemized breakdown of all labor, materials, taxes, insurance, and subcontract, or other costs. Substantiating documentation such as payroll records, receipts, invoices, or the like, must be submitted in

support of each claimed cost. Any Claim for an extension of time or delay costs must be substantiated with schedule analysis and narrative depicting and explaining claimed time impacts.

(B) ***Submission Deadlines.***

(1) A Claim must be submitted within 15 days following the date that Owner notified Contractor in writing that a request for a change in the Contract Time or Contract Price, duly submitted in compliance with Article 5 and Article 6, has been rejected in whole or in part.

(2) With the exception of any dispute regarding the amount of Final Payment, any Claim must be filed on or before the date of Final Payment, or will be deemed waived.

(3) A Claim disputing the amount of Final Payment must be submitted within 15 days of the effective date of Final Payment, under Section 8.8, above.

(4) Strict compliance with these Claim submission deadlines is necessary to ensure that any dispute may be mitigated as soon as possible, and to facilitate cost-efficient administration of the Project. Any Claim that is not submitted within the specified deadlines will be deemed waived by Contractor.

**12.3 Claims Under \$50,000.** For any Claim of less than \$50,000.00, Owner will respond in writing within 45 days of receipt of the Claim, or may first request, in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to defenses to the Claim that Owner may have against Contractor. If Contractor fails to submit the additional documentation to Owner within 15 days of receipt of Owner's request, the claim will be deemed waived.

(A) ***Additional Information.*** If additional information is thereafter required, it may be requested and provided upon mutual agreement of Owner and Contractor.

(B) ***Owner's Response.*** Owner's written response to the Claim, as further documented, will be submitted to Contractor within 15 days after receipt of the further documentation or within a period of time no greater than that taken by Contractor in producing the additional information, whichever is greater.

(C) ***Non-Waiver.*** Any failure by Owner to respond within the times specified above may not be construed as acceptance of the Claim in

whole or in part, or as a waiver of any provision of these Contract Documents.

**12.4 Claims From \$50,000 to \$375,000.** For any Claim of over \$50,000.00, and less than or equal to \$375,000.00, Owner will respond in writing within 60 days of receipt of the Claim, or may request, in writing, within 30 days of receipt of the Claim, any additional documentation supporting the Claim or relating to the defenses to the Claim that Owner may have against Contractor. If Contractor fails to submit the additional documentation to Owner within 30 days of receipt of Owner's request, the claim will be deemed waived.

(A) **Additional Information.** If additional information is thereafter required, it may be requested and provided upon mutual agreement of Owner and Contractor.

(B) **Owner's Response.** Owner's written response to the Claim, as further documented, will be submitted to Contractor within 30 days of receipt of the further documentation, or within a period of time no greater than that taken by the Contractor in producing the additional information or requested documentation, whichever is greater.

(C) **Non-Waiver.** Any failure by Owner to respond within the times specified above may not be construed as acceptance of the Claim in whole or in part, or as a waiver of any provision of these Contract Documents.

**12.5 Claims Over \$375,000.** For any Claim of over \$375,000.00, Owner will respond in writing within 90 days of receipt of the Claim. Owner may request, in writing, within 45 days of receipt of the Claim, any additional documentation supporting the Claim relating to defenses to the Claim that Owner may have against the Contractor. If Contractor fails to submit the additional documentation to Owner within 45 days of receipt of Owner's request, the claim will be deemed waived.

(A) **Additional Information.** If additional information is thereafter required, it may be requested and provided upon mutual agreement of Owner and Contractor.

(B) **Owner's Response.** Owner's response to the Claim, as further documented, will be submitted to Contractor within 45 days after receipt of the further documentation, or within a period of time no greater than that taken by Contractor in producing the additional information or requested documentation, whichever is greater.

(C) **Non-Waiver.** Any failure by Owner to respond within the times specified above may not be construed as acceptance of the Claim in whole or in part, or as a waiver of any provision of these Contract Documents.

## **12.6 Meet and Confer.**

(A) **Claims up to \$375,000.** For Claims less than or equal to \$375,000.00, if Contractor disputes the Owner's written response, or Owner fails to respond within the specified time, Contractor must notify Owner in writing, either within 15 days of receipt of Owner's response, or within 15 days of Owner's failure to respond within the specified time, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. If Contractor fails to dispute Owner's response, in writing, within the specified times, Contractor's Claim will be deemed waived.

(1) Upon receipt of the demand to meet and confer, Owner will schedule the meet and confer conference to be held within 30 days, or later if needed to ensure the mutual availability of all of the individuals that each party requires to represent its interests at the meet and confer conference.

(2) The meet and confer conference will be scheduled at a location at or near Owner's principal office.

(3) If the Claim or any portion remains in dispute following the meet and confer conference, the parties may agree to mediation, as set forth in Section 12.7, below, or if unable to agree, Contractor may file a claim as provided in Government Code Section 900 et seq. (a "Government Code Claim").

(B) **Claims over \$375,000.** For any Claim greater than \$375,000.00, if Contractor disputes the Owner's written response, or Owner fails to respond within the specified time, Contractor must notify Owner in writing, either within 30 days of receipt of Owner's response, or within 30 days of Owner's failure to respond within the specified time, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. If Contractor fails to dispute Owner's response, in writing, within the specified times, Contractor's Claim will be deemed waived.

(1) Upon receipt of the demand to meet and confer, Owner will schedule the meet and confer conference to be held within 60 days, or later if needed to ensure the mutual availability of all of the

individuals that each party requires to represent its interests at the meet and confer conference.

(2) The meet and confer conference will be scheduled at a location at or near Owner's principal office.

(3) For any Claim or any portion(s) of a Claim that remains in dispute following the meet and confer conference, the parties agree to make a good faith effort to resolve the dispute through mediation as a condition precedent to filing a Government Code Claim and initiating litigation.

## **12.7 Mediation and Government Code Claims.**

(A) **Mediation.** Mediation under this Article will be scheduled within 60 days following conclusion of the meet and confer process, with a mediator that the parties mutually agreed upon. The mediation itself may take place more than 60 days following conclusion of the meet and confer process to ensure the mutual availability of the selected mediator and all of the individuals that each party requires to represent its interests. The parties must share the costs of mediation equally, except costs incurred by each party for representation by legal counsel or any other consultant.

### **(B) Government Code Claims.**

(1) Timely presentment of a Government Code Claim is a condition precedent to filing any legal action based on or arising from the Contract.

(2) The time for filing a Government Code Claim will be tolled from the time the Contractor submits its written Claim pursuant to Section 12.2, above, until the time that Claim is denied as a result of the meet and confer process, including any period of time used by the meet and confer process. If the parties agree to mediation pursuant to Section 12.7, below, the time for filing a Government Code Claim will be tolled until conclusion of the mediation by impasse.

**12.8 Tort Claims.** This Article does not apply to tort claims and nothing in this Article is intended nor shall be construed to change the time periods for filing tort-based Government Code Claims.

**12.9 Arbitration.** It is expressly agreed, under California Civil Code Section 1296, that in any arbitration to resolve a dispute relating to this Contract, the arbitrator's award must be supported by law and substantial evidence.

**12.10 Damages.** Contractor is not entitled to recovery of any alleged home office overhead. The Eichleay Formula may not be used for any recovery under the Contract. Contractor is not entitled to consequential damages, including home office overhead or any form of overhead not directly incurred at the Worksite; lost profits; loss of productivity; lost opportunity to work on other projects; diminished bonding capacity; increased cost of financing for the Project; extended capital costs; non-availability of labor, material or equipment due to delays; or any other indirect loss arising from the Contract.

**12.11 Multiple Claims.** In the interest of efficiency, Owner, acting in its sole discretion, may elect to process multiple Claims concurrently, in which case the applicable procedures above will be based on the total amount of such Claims rather than the amount of each individual Claim. Any such election will not operate to change or waive any other requirements of this Article.

### **Article 13 Suspension and Termination**

**13.1 Suspension for Cause.** In addition to all other remedies available to Owner, if Contractor fails to perform or correct work in accordance with the Contract Documents, Owner may immediately order the Work, or any portion of it, suspended until the cause for the suspension has been eliminated to Owner's satisfaction.

(A) ***Failure to Comply.*** Contractor will not be entitled to an increase in Contract Time or Contract Price for a suspension occasioned by Contractor's failure to comply with the Contract Documents.

(B) ***No Duty to Suspend.*** Owner's right to suspend the Work will not give rise to a duty to suspend the Work, and Owner's failure to suspend the Work will not constitute a defense to Contractor's failure to comply with the requirements of the Contract Documents.

**13.2 Suspension for Convenience.** Owner reserves the right to suspend, delay, or interrupt the performance of the Work in whole or in part, for a period of time determined to be appropriate for Owner's convenience, and not due to any act or omission by Contractor or its Subcontractors. Upon notice by Owner pursuant to this provision, Contractor must immediately suspend, delay, or interrupt the Work as directed by Owner. The Contract Price and the Contract Time will be equitably adjusted by Change Order to reflect the cost and delay impact occasioned by such suspension for convenience.



**13.3 Termination for Default.** Contractor may be deemed in default for a material breach of or inability to perform the Contract, including Contractor's refusal or failure to supply sufficient skilled workers, proper materials, or equipment to perform the Work within the Contract Time; refusal or failure to make prompt payment to its employees, Subcontractors, or suppliers or to correct rejected work; disregard of laws, regulations, ordinances, rules, or orders of any public agency with jurisdiction over the Project; or if Contractor lacks financial capacity to complete the Work within the Contract Time; or is otherwise responsible for a material breach of the Contract requirements.

(A) **Notice.** Upon Owner's determination that Contractor is in default, Owner may provide Contractor and its surety written notice of default and intent to terminate the Contract.

(B) **Termination.** Within seven calendar days after notice of intent to terminate for default has been given, unless the default is cured or arrangements to cure the default have been made and memorialized in writing, to Owner's satisfaction, Owner may terminate the Contract by written notice to Contractor with a copy to Contractor's surety.

(C) **Waiver.** Time being of the essence in the performance of the Work, if Contractor's surety fails to arrange for completion of the Work in accordance with the Performance Bond, within seven calendar days from the date of the notice of termination, Contractor's surety will be deemed to have waived its right to complete the Work under the Contract, and Owner may immediately make arrangements for the completion of the Work through use of its own forces, by hiring a replacement contractor, or by any other means that Owner determines advisable under the circumstances. Contractor and its surety will be jointly and severally liable for any additional cost incurred by Owner to complete the Work following termination. In addition, Owner will have the right to use any materials, supplies, and equipment belonging to Contractor and located at the Worksite for the purposes of completing the remaining Work.

(D) **Wrongful Termination.** If a court of competent jurisdiction or an arbitrator later determines that the termination for default was wrongful, the termination will be deemed to be a termination for convenience, and Contractor's damages will be strictly limited to the compensation provided for termination for convenience, in Section 13.4, below. Contractor waives any claim for any other damages for wrongful termination including consequential damages, lost opportunity costs or lost profits.

**13.4 Termination for Convenience.** Owner reserves the right to terminate all or part of the Contract for convenience upon written notice to Contractor. Upon receipt of such notice, Contractor must immediately stop the Work,

comply with Owner's instructions to protect the completed Work and materials, and use its best efforts to minimize further costs. In the event of termination for convenience, the parties agree that the following will constitute full and fair compensation to Contractor, and that Contractor will not be entitled to any additional compensation:

(A) **Completed Work.** The value of its Work satisfactorily performed to date, including Project overhead and profit based on Contractor's schedule of values;

(B) **Demobilization.** Actual and substantiated demobilization costs; and

(C) **Markup.** Five percent of the total value of the Work performed as of the date of notice of termination or five percent of the value of the Work yet to be completed, whichever is less.

**13.5 Provisions Remaining in Effect.** Upon termination pursuant to this Article, the provisions of the Contract Documents remain in effect as to any claim, indemnity obligation, warranties, guarantees, submittals of as-built drawings, instructions, or manuals, or other such rights and obligations arising prior to the termination date.

## **Article 14 Miscellaneous Provisions**

**14.1 Assignment of Unfair Business Practice Claims.** Under Public Contract Code Section 7103.5, Contractor and its Subcontractors agree to assign to Owner all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the Contract or subcontract. This assignment will be effective at the time Owner tenders Final Payment to Contractor, without further acknowledgement by the parties.

**14.2 Provisions Deemed Inserted.** Every provision of law required to be inserted in the Contract Documents is deemed to be inserted, and the Contract Documents will be construed and enforced as though such provision has been included. If it is discovered that through mistake or otherwise that any required provision was not inserted, or not correctly inserted, the Contract Documents will be amended accordingly.

- 14.3 Waiver.** No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of the Contract Documents will be effective unless it is in writing and signed by the party waiving the breach, failure, right, or remedy. No waiver of any breach, failure, right, or remedy will be deemed a waiver of any other breach, failure, right, or remedy, whether or not similar, nor will any waiver constitute a continuing waiver unless specified in writing by the waiving party.
- 14.4 Titles, Headings, and Groupings.** The titles and headings used and the groupings of provisions in the Contract Documents are for convenience only and may not be used in the construction or interpretation of the Contract Documents or relied upon for any other purpose.
- 14.5 Statutory and Regulatory References.** With respect to any amendments to any statutes or regulations referenced in these Contract Documents, the reference is deemed to be the version in effect on the date that that bids were due.

## **SPECIAL CONDITIONS**

- 1. Preconstruction Conference.** A preconstruction conference shall be scheduled after award of the contract.
- 2. Initial Schedule.** Contractor's initial schedule shall be submitted to Engineer no later than the Preconstruction Conference.
- 3. Reference to Standard Specifications.** Any reference to "Standard Specifications," "State Specifications" or "CSS" within these Contract Documents shall mean the current edition of the Standard Specifications of the State of California, Department of Transportation and the following shall apply:
  - 3.1 In case of conflict between the Standard Specifications and the Contract Documents, the Contract Documents shall govern.
  - 3.2 Where the term "Engineer" is used in the Standard Specifications, it shall mean the City Engineer or authorized designee(s).
  - 3.3 Where the term "Special Provisions" is used in the Standard Specifications, it shall mean these Supplemental General Conditions.
  - 3.4 Where the term "State" is used in the Standard Specifications, it shall mean "City" or "Owner."
  - 3.5 Any provisions for measurement and payment specified in the Standard Specifications shall be disregarded and the provisions of these Contract Documents shall govern.
- 4. Shop Drawings.** Whenever shop drawings are required by the Contract Documents or by Engineer, Contractor shall submit five (5) prints of each shop drawing to Engineer. The term "shop drawing" includes detail design calculations, fabrication and installation drawings, lists, graphs, operation instructions, etc.
  - 4.1 If three prints of the drawing are returned to Contractor marked "NO EXCEPTIONS TAKEN," further revision of the drawings will not be required. If one print of the drawing is returned to Contractor marked "REVISE AND RESUBMIT," Contractor shall revise the drawing and resubmit five (5) copies of the revised drawing to Engineer. Owner reserves the right to withhold payment due Contractor to cover additional costs of Engineer's review beyond the second submission.
  - 4.2 Fabrication of an item shall not commence before Engineer has

reviewed the pertinent shop drawings and returned copies to Contractor marked either "NO EXCEPTIONS TAKEN" or "MAKE CORRECTIONS NOTED."

4.3 Revisions indicated on shop drawings are deemed necessary to meet the existing requirements of the Contract Documents and shall not be taken as the basis of claims for extra work. Contractor shall have no claim for damages or extension of time due to any delay resulting from making the required revisions to shop drawings. Engineer's review of the shop drawings shall not relieve the Contractor of responsibility for any errors or omissions contained in the shop drawings nor shall such review operate to waive or modify any provision contained in the Contract Documents.

**5.** City shall provide water required for performance of the Work. Contractor is responsible for the appropriate disposal of waste water in coordination with City personnel. Contractor shall provide a backflow preventer on all point of connections to the City Water System. All backflow preventers shall be checked and approved by the City Water Division. Contractor shall provide a deposit (refundable) and make necessary arrangements to pick up a hydrant meter at the Morgan Hill Public Works Office. At the completion of the Project, if the hydrant meter is not returned promptly or if it is damaged, Contractor shall forfeit its deposit.

**6.** The Contractor shall provide and use equipment and plants suitable to produce the quality of work and materials required by the Contract Documents. Contractor may be required to remove equipment which the Engineer deems unsuitable for the Work. Contractor shall ensure that equipment is operated by trained, experienced operators, and at a speed or rate of production not to exceed that recommended by the manufacturer. Any vehicles used to haul materials over existing streets and highways shall be equipped with pneumatic tires.

**7. Lines and Grades.** Engineer shall set the stakes or marks necessary to establish the lines and grades required for the completion of the Work in accordance with the Contract Documents. Contractor shall give at least two (2) working days notice to Engineer of the need for setting any lines and grades.

7.1. Distances and measurements are given and will be made in a horizontal plane. Grades are given from the top of stakes or nail unless otherwise noted. Three consecutive points shown on the same rate of slope must be used in common in order to detect any variation from a straight grade. Any variation from a straight grade, straight slope or line, must be reported to the Engineer. If such discrepancy is not reported to the Engineer, the Contractor shall be responsible for any error in the finished work.

7.2 The Contractor shall preserve all stakes and points set for lines, grades or measurements of the work in their proper places until authorized by the Engineer to remove them. All expense incurred by replacing stakes that have been removed without proper authority may be deducted from any payment due to the Contractor.

**8. Disposal of Materials Outside of Street Right-of-Way.** Unless otherwise specified in the Specifications or Supplemental General Conditions, Contractor is solely responsible for disposing of materials outside the street right-of-way and for all associated costs. Before disposing materials outside the street right-of-way, Contractor shall 1) obtain a written release from the property owner releasing Owner from any and all responsibility in connection with the disposal of material on that property; and 2) obtain permission from the Engineer to dispose of the material at the permitted location.

**9. Emergency Contact.** Prior to the commencement of Work on the Project, Contractor shall provide contact information to Engineer for the person designated by Contractor to respond to any emergency that arises on the Worksite during the course of the Project. That person shall be responsible for responding to the Worksite within thirty (30) minutes following notification of an emergency by the City's Police or Fire Department, regardless of the time of day.

**10. Right-of-Way.** Owner shall provide the right-of-way for performance of the Work. Contractor is solely responsible for any additional area required outside of the designated the right-of-way, unless otherwise provided in the Contract Documents.

**11. Environmental Control.** Contractor shall not pollute any drainage course or its tributary inlets with fuels, oils, bitumens, acids, insecticides, herbicides or other harmful materials. Contractor and its subcontractors shall at all times in the performance of the Work comply with all applicable federal, state, and local laws and regulations concerning pollution of waterways.

**12. Attorneys' Fees.** If any legal action or proceeding is brought between Owner and Contractor arising out of, relating to or seeking the interpretation or enforcement of the terms of these Contract Documents, the prevailing party will be entitled to reasonable attorneys' fees and costs, including the attorneys' fees and costs for any arbitration, appeal, or enforcement of judgment.

**13. Authorized Work Days and Hours.**

**13.1 Authorized Work Days.** Except as expressly authorized in writing by Owner, Contractor is limited to performing Work on the Project on the following days of the week, excluding holidays observed by Owner: Monday through Friday.

**13.2 Authorized Work Hours.** Except as expressly authorized in writing by Owner, Contractor is limited to performing Work on the Project during the following hours: 7am to 6pm.

## TECHNICAL PROVISIONS

### SECTION 1 - GENERAL REQUIREMENTS

#### 1.00 Scope of Work

The scope of the work for this project includes AC Overlay, full depth AC pavement repair, crack seal, slurry seal, replacement of traffic signal detector loops and replacement of all existing traffic delineation and all related work on various streets within the City limits. The City in advance of the work will mark all work limits.

#### 2.00 Mobilization

a. Description: Mobilization shall consist of preparatory work and operations, including but not limited to, that necessary for the movement of personnel, equipment, supplies, and incidentals to the project site, and for all other work and operations which must be performed or for costs incurred prior to beginning work and in the course of work on various contract items at the project site. Mobilization shall be in accordance with Section 11 "Mobilization" of the Standard Specifications of the State of California, Department of Transportation (CSS).

b. Measurement and Payment: Mobilization shall be measured on a lump sum basis. The contract lump sum price paid for "Mobilization" shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals, and for doing all work involved in compliance with the CSS and these Technical Provisions including, but not limited to, all mobilization, remobilization, demobilization, moving to new locations, and replacing and disposing of material, as specified in the CSS and these Technical Provisions, and as directed by the Engineer. The contract lump sum price paid for "Mobilization" shall not exceed 5% of the total of all other bid items.

#### 3.00 Water Pollution Control

a. Description: Water pollution control work shall conform to the provisions in Section 7-1.01G, "Water Pollution," of the CSS and these Technical Provisions.

*Water pollution control work shall conform to the requirements in the "Storm Water Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual" and the "Construction Site Best Management Practices (BMPs) Manual," and addenda thereto issued up to, and including, the date of advertisement of the project. These manuals are hereinafter referred to respectively as the "Preparation Manual" and the "Construction Site BMPs Manual," and collectively, as the "Manuals." Copies of the Manuals may be obtained from the Department of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815, Telephone: (916) 445-3520, and from the Department's Internet website at: <http://www.dot.ca.gov/hq/construc/stormwater.html>.*



The Contractor shall know and fully comply with applicable provisions of the Manuals, and Federal, State, and local regulations and requirements that govern the Contractor's operations and storm water and non-storm water discharges from both the project site and areas of disturbance outside the project limits during construction. Attention is directed to Sections 7-1.01, "Laws to be Observed," and 7-1.12, "Indemnification and Insurance," of the CSS.

Water pollution control requirements shall apply to storm water and non-storm water discharges from areas outside the project site which are directly related to construction activities for this contract including, but not limited to, asphalt batch plants, material borrow areas, concrete plants, staging areas, storage yards and access roads. The Contractor shall comply with the Manuals for those areas and shall implement, inspect and maintain the required water pollution control practices.

The Contractor shall be responsible for penalties assessed or levied on the Contractor or the City as a result of the Contractor's failure to comply with the provisions in this section "Water Pollution Control" including, but not limited to, compliance with the applicable provisions of the Manuals, and Federal, State and local regulations and requirements as set forth therein.

Penalties as used in this section shall include fines, penalties and damages, whether proposed, assessed, or levied against the City or the Contractor, including those levied under the Federal Clean Water Act and the State Porter-Cologne Water Quality Control Act, by governmental agencies or as a result of citizen suits. Penalties shall also include payments made or costs incurred in settlement for alleged violations of the Manuals, or applicable laws, regulations, or requirements. Costs incurred could include sums spent instead of penalties, in mitigation or to remediate or correct violations

b. Measurement and Payment: Full compensation for water pollution control shall be considered as included in the contract price paid for various items of work involved and no additional compensation will be allowed therefor.

#### **4.00 Scheduling**

a. Description: The Contractor shall submit a complete, tentative project schedule at the time of the pre-construction meeting. A minimum of five (5) working days prior to beginning work on any of the streets, the Contractor shall submit to the Engineer for approval a detailed written schedule of work listing the dates on which individual streets shall be surfaced. Following approval, the Contractor shall adhere diligently to the approved written schedule in the prosecution of the work.

The Contractor shall post "No Parking" signs on affected streets indicating the date of work at least three (3) calendar days prior to the actual work. The Contractor shall also notify individual residents who will be adversely affected by the work in writing via fliers or door hangers one (1) week prior to work. The Contractor shall submit for approval by the Engineer a sample of the written notification to be supplied to residents. This sample shall be submitted at the time of the pre-construction meeting. Any expenses incurred by delays caused by the failure of the Contractor to adhere to the approved schedule or to properly notify residents shall be borne solely by the Contractor.

b. Measurement and Payment: Full compensation for scheduling shall be considered as included in the contract price paid for various items of work involved and no additional compensation will be allowed therefore.

## **5.00 Construction Area Traffic Control Devices**

a. Description: Flagging, signs, and all other traffic control devices furnished, installed, maintained, and removed when no longer required shall conform to the provisions in Section 12, "Construction Area Traffic Control Devices," of the CSS and these Technical Provisions.

Category 1 traffic control devices are defined as those devices that are small and lightweight (less than 45 kg {100 pounds}), and have been in common use for many years. The devices shall be known to be crashworthy by crash testing, crash testing of similar devices, or years of demonstrable safe performance. Category 1 traffic control devices include traffic cones, plastic drums, portable delineators, and channelizers.

If requested by the Engineer, the Contractor shall provide written self-certification for crashworthiness of Category 1 traffic control devices. Self-certification shall be provided by the manufacturer or Contractor and shall include the following: date, Federal Aid number (if applicable), expenditure authorization, district, county, route and kilometer post {post mile} of project limits; company name of certifying vendor, street address, city, state and zip code; printed name, signature and title of certifying person; and an indication of which Category 1 traffic control devices will be used on the project. The Contractor may obtain a standard form for self-certification from the Engineer.

Category 2 traffic control devices are defined as those items that are small and lightweight (less than 45 kg {100 pounds}), and that are not expected to produce significant vehicular velocity change, but may otherwise be potentially hazardous. Category 2 traffic control devices include: barricades and portable sign supports.

Category 2 devices purchased on or after October 1, 2000 shall be on the Federal Highway Administration (FHWA) Acceptable Crashworthy Category 2 Hardware for Work Zones list. This list is maintained by FHWA and can be located at the following internet address:

<http://safety.fhwa.dot.gov/fourthlevel/hardware/listing.cfm?code=workzone>.

The Department maintains a secondary list at the following internet address:

<http://www.dot.ca.gov/hq/traffops/signtech/signdel/pdf.htm>.

Category 2 devices that have not received FHWA acceptance, and were purchased before October 1, 2000, shall not be used on the project. Category 2 devices in use that have received FHWA acceptance shall be labeled with the FHWA acceptance letter number and the name of the manufacturer by the start of the project. The label shall be readable. All Category 2 devices without a label shall not be used on the project.

If requested by the Engineer, the Contractor shall provide a written list of Category 2 devices to be used on the project at least 5 days prior to beginning any work using the devices. For each type of device, the list shall indicate the FHWA acceptance letter number and the name of the manufacturer.

b. Measurement and Payment: Full compensation for construction area traffic control devices shall be considered as included in the contract price paid for various items of work involved and no additional compensation will be allowed therefor.

## **6.00 Traffic Control Systems**

a. Description: A traffic control system shall consist of closing traffic lanes in conformance the provisions in Section 12, “Construction Area Traffic Control Devices,” of the CSS, the provisions under “Traffic Control Systems” and “Construction Area Signs” of these Technical Provisions. Attention is also directed to Sections 7-1.08, “Public Convenience,” and 7-1.09, “Public Safety,” of the CSS.

The Contractor shall notify local authorities of the Contractor's intent to begin work at least five (5) days before work is begun. The Contractor shall cooperate with local authorities relative to handling traffic through the area and shall make all arrangements relative to keeping the working area clear of parked vehicles.

Whenever vehicles or equipment are parked on the shoulder within 6' (1.8 m) of a traffic lane, the shoulder area shall be closed with fluorescent traffic cones or portable delineators placed on a taper in advance of the parked vehicles or equipment and along the edge of the pavement at 25' (7.5 m) intervals to a point not less than 25' (7.5 m) past the last vehicle or piece of equipment. A minimum of 9 cones or portable delineators shall be used for the taper. A C23 (Road Work Ahead) or C24 (Shoulder Work Ahead) sign shall be mounted on a portable sign stand with flags. The sign shall be placed where directed by the Engineer.

Construction operations requiring the closure of one or more lanes on Monterey Road, Watsonville Road, Tennant Avenue or Llagas Road shall be limited to the hours between 8 AM to 4 PM. All other construction operations shall be limited to the hours between 7 AM to 6 PM. Contractor must maintain one lane of traffic in both directions of travel at all times on Arterials and high traffic volume streets. The Contractor may close residential and low traffic volume streets only with advance approval of the Engineer. Minor deviations from the requirements of this section concerning hours of work, which do not significantly change the cost of the work, may be permitted upon the written request of the Contractor if, in the opinion of the Engineer, public traffic will be better served and the work expedited. These deviations shall not be adopted by the Contractor until the Engineer has approved them in writing. All other modifications will be made by contract change order.

### Traffic Control for Lane Closures:

The provisions in this section will not relieve the Contractor of responsibility for providing additional devices or taking measures as may be necessary to comply with the provisions in Section 7-1.09, “Public Safety,” of the CSS.

During traffic stripe operations and pavement marker placement operations using bituminous adhesive, traffic shall be controlled, at the option of the Contractor, with either stationary or moving lane closures. During other operations, traffic shall be controlled with stationary lane closures. Attention is directed to the provisions in Section 84-1.04, "Protection from Damage," and Section 85-1.06, "Placement," of the CSS.

If components in the traffic control system are displaced or cease to operate or function as specified from any cause during the progress of the work, the Contractor shall immediately repair the components to the original condition or replace the components and shall restore the components to the original location.

1. Stationary Lane Closure: When lane closures are made for work periods only, at the end of each work period, components of the traffic control system, except portable delineators placed along open trenches or excavation adjacent to the traveled way shall be removed from the traveled way and shoulder. If the Contractor so elects, the components may be stored at selected central locations, designated by the Engineer within the limits of the City right of way.

2. Moving Lane Closure: Flashing arrow signs used in moving lane closures shall be truck-mounted. Changeable message signs used in moving lane closure operations shall conform to the provisions in Section 12-3.12, "Portable Changeable Message Signs," of the CSS, except the signs shall be truck-mounted and the full operation height of the bottom of the sign may be less than 2.1 m {7 feet} above the ground, but should be as high as practicable.

Truck-mounted attenuators (TMA) for use in moving lane closures shall be any of the following approved models, or equal:

- Hexfoam TMA Series 3000, Alpha 1000 TMA Series 1000 and Alpha 2001 TMA Series 2001, manufactured by Energy Absorption Systems, Inc., One East Wacker Drive, Chicago, IL 60601-2076, Telephone (312) 467-6750.
  - Distributor (Northern): Traffic Control Service, Inc., 8585 Thys Court, Sacramento, CA 95828, Telephone 1-800-884-8274, FAX (916) 387-9734.
  - Distributor (Southern): Traffic Control Service, Inc., 1881 Betmor Lane, Anaheim, CA 92805, and Telephone 1-800-222-8274.
- Cal T-001 Model 2 or Model 3, manufacturer and distributor: Hexcel Corporation, 11711 Dublin Boulevard, P.O. Box 2312, Dublin, CA 94568, Telephone (510) 828-4200.
- Renco Rengard Model Nos. CAM 8-815 and RAM 8-815, manufacturer and distributor: Renco Inc., 1582 Pflugerville Loop Road, P.O. Box 730, Pflugerville, TX 78660-0730, Telephone 1-800-654-8182.

Each TMA shall be individually identified with the manufacturer's name, address, TMA model number, and a specific serial number. The names and numbers shall each be a minimum 13 mm {1/2 inch} high and located on the left (street) side at the lower front corner. The TMA shall have a message next to the name and model number in 13 mm {1/2 inch} high letters which states, "The bottom of this TMA shall be 305 mm  $\pm$  153 mm {12 inches  $\pm$  6 inches} above the ground at all points for proper impact performance." Any TMA which is damaged or appears to be in poor condition shall not be used unless recertified by the manufacturer. The Engineer shall be the sole judge as to whether used TMAs supplied under this contract need recertification. Each unit shall be certified by the manufacturer to meet the requirements for TMA in conformance with the standards established by the Transportation Laboratory.

Approvals for new TMA designs proposed as equal to the above approved models shall be in conformance with the procedures (including crash testing) established by the Transportation Laboratory. For information regarding submittal of new designs for evaluation contact: Transportation Laboratory, 5900 Folsom Boulevard, Sacramento, California 95819.

New TMAs proposed as equal to approved TMAs or approved TMAs determined by the Engineer to need recertification shall not be used until approved or recertified by the Transportation Laboratory.

b. Measurement and Payment: The contract lump sum price paid for "Traffic Control Systems" shall include full compensation for furnishing all labor, materials (including signs), tools, equipment, and incidentals, and for doing all the work involved in placing, removing, storing, maintaining, moving to new locations, replacing and disposing of the components of the traffic control system, as specified in the CSS and these Technical Provisions, and as directed by the Engineer. Flagging costs shall be fully the responsibility of the Contractor.

The adjustment provisions in Section 4-1.03, "Changes," of the CSS shall not apply to the item of traffic control system for lane closures. Adjustments in compensation for traffic control systems will be made only for increased or decreased traffic control system required by changes ordered by the Engineer and will be made on the basis of the cost of the increased or decreased traffic control necessary.

## **7.00 Prequalified and Tested Signing and Delineation Materials**

a. Description: The Department of Transportation (Caltrans) maintains the following list of Prequalified and Tested Signing and Delineation Materials. The Engineer shall not be precluded from sampling and testing products on the list of Prequalified and Tested Signing and Delineation Materials.

The manufacturer of products on the list of Prequalified and Tested Signing and Delineation Materials shall furnish the Engineer a Certificate of Compliance in conformance with the provisions in Section 6-1.07, "Certificates of Compliance," of the CSS for each type of traffic product supplied.

For those categories of materials included in the list of Prequalified and Tested Signing and Delineation Materials, only those products shown within the listing may be used in the work. Other categories of products, not included in the list of Prequalified and Tested Signing and Delineation Materials, may be used in the work provided they conform to the requirements of the CSS.

Materials and products may be added to the list of Prequalified and Tested Signing and Delineation Materials if the manufacturer submits a New Product Information Form to the New Product Coordinator at the Transportation Laboratory. Upon a Departmental request for samples, sufficient samples shall be submitted to permit performance of required tests. Approval of materials or products will depend upon compliance with the specifications and tests the Department may elect to perform.

### **PAVEMENT MARKERS, PERMANENT TYPE**

#### **Retroreflective With Abrasion Resistant Surface (ARS)**

- a. Apex, Model 921AR (100 mm x 100 mm)
- b. Avery Dennison (formerly Stimsonite), Models C88 (100 mm x 100 mm), 911 (100 mm x 100 mm) and 953 (70 mm x 114 mm)
- c. Ray-O-Lite, Model "AA" ARS (100 mm x 100 mm)
- d. 3M Series 290 (89 mm x 100 mm)

#### **Retroreflective With Abrasion Resistant Surface (ARS)**

(For recessed applications only)

- a. Avery Dennison (formerly Stimsonite), Model 948 (58 mm x 119 mm)
- b. Avery Dennison (formerly Stimsonite), Model 944SB (51 mm x 100 mm)\*
- c. Ray-O-Lite, Model 2002 (58 mm x 117 mm)
- d. Ray-O-Lite, Model 2004 ARS (51 mm x 100 mm)\*
- e. \*For use only in 114 mm wide (older) recessed slots

#### **Non-Reflective For Use With Epoxy Adhesive, 100 mm Round**

- a. Apex Universal (Ceramic)

Non-Reflective For Use With Bitumen Adhesive, 100 mm Round

- a. Alpine Products, “D-Dot” and “ANR” (ABS)
- b. Apex Universal (Ceramic)
- c. Apex Universal, Models 929 (ABS) and 929PP (Polypropylene)
- d. Elgin Molded Plastics, “Empco-Lite” Model 900 (ABS)
- e. Hi-Way Safety, Inc., Models P20-2000W and 2001Y (ABS)
- f. Interstate Sales, “Diamond Back” (ABS) and (Polypropylene)
- g. Novabrite Models Adot-w (White) Adot-y (Yellow), (ABS)
- h. Road Creations, Model RCB4NR (Acrylic)
- i. Zumar Industries, “Titan TM40A” (ABS)

### **PAVEMENT MARKERS, TEMPORARY TYPE**

Temporary Markers For Long Term Day/Night Use (6 months or less)

- a. Apex Universal, Model 924 (100 mm x 100 mm)
- b. Elgin Molded Plastics, “Empco-Lite” Model 901 (100 mm x 100 mm)
- c. Road Creations, Model R41C (100 mm x 100 mm)
- d. Vega Molded Products “Temporary Road Marker” (75 mm x 100 mm)

Temporary Markers For Short Term Day/Night Use (14 days or less)

(For seal coat or Scrub seal applications, clear protective covers are required)

- a. Apex Universal, Model 932
- b. Bunzl Extrusion, Models T.O.M., T.R.P.M., and “HH” (High Heat)
- c. Hi-Way Safety, Inc., Model 1280/1281

### **STRIPING AND PAVEMENT MARKING MATERIAL**

Permanent Traffic Striping and Pavement Marking Tape

- a. Advanced Traffic Marking, Series 300 and 400
- b. Brite-Line, Series 1000
- c. Brite-Line, “DeltaLine XRP”
- d. Swarco Industries, “Director 35” (For transverse application only)
- e. Swarco Industries, “Director 60”
- f. 3M, “Stamark” Series 380 and 5730
- g. 3M, “Stamark” Series 420 (For transverse application only)

Temporary (Removable) Striping and Pavement Marking Tape (6 months or less)

- a. Advanced Traffic Marking, Series 200
- b. Brite-Line, Series 100
- c. Garlock Rubber Technologies, Series 2000
- d. P.B. Laminations, Aztec, Grade 102
- e. Swarco Industries, “Director-2”

- f. Trelleborg Industri, R140 Series
- g. 3M, Series 620 “CR”, and Series A750
- h. 3M, Series A145, Removable Black Line Mask
- i. Advanced Traffic Marking Black “Hide-A-Line”
- j. Brite-Line “BTR” Black Removable Tape

Preformed Thermoplastic (Heated in place)

- a. Avery Dennison, “Hotape”
- b. Flint Trading, “Premark” and “Premark 20/20 Flex”

Ceramic Surfacing Laminate, 150 mm x 150 mm

- a. Safeline Industries/Highway Ceramics, Inc.

### **CLASS 1 DELINEATORS**

One Piece Drivable Flexible Type, 1700 mm

- a. Bunzl Extrusion, “Flexi-Guide Models 400 and 566”
- b. Carsonite, Curve-Flex CFRM-400
- c. Carsonite, Roadmarker CRM-375
- d. FlexStake, Model 654 TM
- e. GreenLine Models HWD1-66 and CGD1-66
- f. J. Miller Industries, Model JMI-375 (with soil anchor)

Special Use Flexible Type, 1700 mm

- a. Bunzl Extrusion, Model FG 560 (with 450 mm U-Channel base)
- b. Carsonite, “Survivor” (with 450 mm U-Channel base)
- c. Carsonite, Roadmarker CRM-375 (with 450 mm U-Channel base)
- d. FlexStake, Model 604
- e. GreenLine Models HWDU and CGD (with 450 mm U-Channel base)
- f. Safe-Hit with 200 mm pavement anchor (SH248-GP1)
- g. Safe-Hit with 380 mm soil anchor (SH248-GP2) and with 450 mm soil anchor (SH248-GP3)

Surface Mount Flexible Type, 1200 mm

- a. Bent Manufacturing Company, Masterflex Model MF-180EX-48
- b. Carsonite, “Super Duck II”
- c. FlexStake, Surface Mount, Models 704 and 754 TM

### **CHANNELIZERS**

Surface Mount Type, 900 mm

- a. Bent Manufacturing Company, Masterflex Models MF-360-36 (Round) and MF-180-36 (Flat)
- b. Bunzl Extrusion, Flex-Guide Models FG300LD and FG300UR
- c. Carsonite, “Super Duck” (Flat SDF-436, Round SDR-336)



- d. Carsonite, “Super Duck II” Model SDCF203601MB “The Channelizer”
- e. FlexStake, Surface Mount, Models 703 and 753 TM
- f. GreenLine, Model SMD-36
- g. Hi-Way Safety, Inc. “Channel Guide Channelizer” Model CGC36
- h. Repo, Models 300 and 400
- i. Safe-Hit, Guide Post, Model SH236SMA
- j. The Line Connection, “Dura-Post” Model DP36-3 (Permanent)
- k. The Line Connection, “Dura-Post” Model DP36-3C (Temporary)

### **CONICAL DELINEATORS, 1070 mm**

(For 700 mm Traffic Cones, see Standard Specifications)

- a. Bent Manufacturing Company “T-Top”
- b. Plastic Safety Systems “Navigator-42”
- c. Radiator Specialty Company “Enforcer”
- d. Roadmaker Company “Stacker”
- e. Traffix Devices “Grabber”

### **OBJECT MARKERS**

Type “K”, 450 mm

- a. Carsonite, Model SMD 615
- b. FlexStake, Model 701 KM
- c. Repo, Models 300 and 400
- d. Safe-Hit, Model SH718SMA
- e. The Line Connection, Model DP21-4K

Type “K-4” / “Q” Object Markers, 600 mm

- a. Bent Manufacturing “Masterflex” Model MF-360-24
- b. Bunzl Extrusion, Model FG324PE
- c. Carsonite, Super Duck II
- d. FlexStake, Model 701KM
- e. Repo, Models 300 and 400
- f. Safe-Hit, Models SH8 24SMA\_WA and SH8 24GP3\_WA
- g. The Line Connection, Model DP21-4Q

### **CONCRETE BARRIER MARKERS AND TEMPORARY RAILING (TYPE K) REFLECTORS**

Impactable Type

- a. ARTUK, “FB”
- b. Bunzl Extrusion, Model PCBM-12
- c. Duraflex Corp., “Flexx 2020” and “Electriflexx”
- d. Hi-Way Safety, Inc., Model GMKRM100
- e. Sun-Lab Technology, “Safety Guide Light Model TM-5”

Non-Impactable Type

- a. ARTUK, JD Series
- b. Vega Molded Products, Models GBM and JD

### **THREE BEAM BARRIER MARKERS**

(For use to the left of traffic)

- a. Bunzl Extrusion, “Mini” (75 mm x 254 mm)
- b. Duraflex Corp., “Railrider”

### **CONCRETE BARRIER DELINEATORS, 400 mm**

(For use to the right of traffic)

- a. Bunzl Extrusion, Model PCBM T-16
- b. Safe-Hit, Model SH216RBM
- c. Sun-Lab Technology, “Safety Guide Light, Model TM16,” 75 mm x 300 mm

### **CONCRETE BARRIER-MOUNTED MINI-DRUM (260 mm x 360 mm x 570 mm)**

- a. Stinson Equipment Company “SaddleMarker”

### **SOUND WALL DELINEATOR**

(Applied vertically. Place top of 75 mm x 300 mm reflective element at 1200 mm above roadway)

- a. Bunzl Extrusion, PCBM S-36
- b. Sun-Lab Technology, “Safety Guide Light, Model SM12,” 75 mm x 300 mm

### **GUARD RAILING DELINEATOR**

(Place top of reflective element at 1200 mm above plane of roadway)

Wood Post Type, 686 mm

- a. Bunzl Extrusion, FG 427 and FG 527
- b. Carsonite, Model 427
- c. FlexStake, Model 102 GR
- d. GreenLine GRD 27
- e. J. Miller Model JMI-375G
- f. Safe-Hit, Model SH227GRD

Steel Post Type

- a. Carsonite, Model CFGR-327 with CFGRBK300 Mounting Bracket

### **RETROREFLECTIVE SHEETING**

Channelizers, Barrier Markers, and Delineators

- a. Avery Dennison T-6500 Series (Formerly Stimsonite, Series 6200)  
(For rigid substrate devices only)
- b. Nippon Carbide, Flexible Ultralite Grade (ULG) II
- c. Reflexite, PC-1000 Metalized Polycarbonate
- d. Reflexite, AC-1000 Acrylic
- e. Reflexite, AP-1000 Metalized Polyester
- f. Reflexite, Conformalight, AR-1000 Abrasion Resistant Coating
- g. 3M, High Intensity

Traffic Cones, 330 mm Sleeves

- a. Reflexite SB (Polyester), Vinyl or “TR” (Semi-transparent)

Traffic Cones, 100 mm and 150 mm Sleeves

- a. Nippon Carbide, Flexible Ultralite Grade (ULG) II
- b. Reflexite, Vinyl, “TR” (Semi-transparent) or “Conformalight”
- c. 3M Series 3840

Barrels and Drums

- a. Avery Dennison W-6100
- b. Nippon Carbide, Flexible Ultralite Grade (ULG) II
- c. Reflexite, “Conformalight”, “Super High Intensity” or “High Impact Drum Sheeting”
- d. 3M Series 3810

Barricades: Type I, Medium-Intensity (Typically Enclosed Lens, Glass-Bead Element)

- a. American Decal, Adcolite
- b. Avery Dennison, T-1500 and T-1600 series
- c. 3M Engineer Grade, Series 3170

Barricades: Type II, Medium-High-Intensity (Typically Enclosed Lens, Glass Bead Element)

- a. Avery Dennison, T-2500 Series
- b. Kiwalite Type II
- c. Nikkalite 1800 Series

Signs: Type II, Medium-High-Intensity (Typically Enclosed Lens, Glass-Bead Element)

- a. Avery Dennison, T-2500 Series
- b. Kiwalite, Type II
- c. Nikkalite 1800 Series

Signs: Type III, High-Intensity (Typically Encapsulated Glass-Bead Element)

- a. Avery Dennison, T-5500 Series
- b. Nippon Carbide, Nikkalite Brand Ultralite Grade II
- c. 3M Series 3870

Signs: Type IV, High-Intensity (Typically Unmetallized Microprismatic Element)

- a. Avery Dennison, T-6500 Series (Formerly Stimsonite Series 6200)

Signs: Type VI, Elastomeric (Roll-Up) High-Intensity, without Adhesive

- a. Reflexite "Vinyl" (Orange)
- b. Reflexite "SuperBright" (Fluorescent orange)
- c. Reflexite "Marathon" (Fluorescent orange)
- d. 3M Series RS34 (Orange) and RS20 (Fluorescent orange)

Signs: Type VII, Super-High-Intensity (Typically Unmetallized Microprismatic Element)

- a. 3M LDP Series 3970

Signs: Type VIII, Super-High-Intensity (Typically Unmetallized Microprismatic Element)

- a. Avery Dennison, T-7500 Series

### **SPECIALTY SIGNS**

All Sign Products, STOP Sign (All Plastic), 750 mm

- a. Reflexite "Endurance" Work Zone Sign

### **SIGN SUBSTRATE**

Fiberglass Reinforced Plastic (FRP)

- a. Fiber-Brite
- b. Sequentia, "Polyplate"

b. Measurement and Payment: Full compensation for Prequalified and Tested Signing and Delineation Materials shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation be allowed therefor.

### **8.00 Construction Area Signs**

a. Description: Construction area signs shall be furnished, installed, maintained, and removed when no longer required in accordance with the provisions in Section 12, "Construction Area Traffic Control Devices," of the CSS.

b. Materials and Installation: The Contractor shall notify the appropriate regional notification center for operators of subsurface installations at least two (2) working days,

but not more than fourteen (14) calendar days, prior to commencing any excavation for construction area signposts. The regional notification centers include but are not limited to the following:

Notification Center	Telephone Number
Underground Service Alert-Northern California (USA)	811

All excavations required to install construction area signs shall be performed by hand methods without the use of power equipment, except that power equipment may be used if it is determined there are no utility facilities in the area of the proposed post holes.

Sign substrates for stationary mounted construction area signs may be fabricated from fiberglass-reinforced plastic.

The term “construction area signs” shall also include temporary object markers required for the direction of public traffic through or around the work during construction. Object markers listed or designated on the plans as construction area signs shall be considered to be signs and shall be furnished, erected, maintained, and removed by the Contractor in the same manner specified for construction area signs and the following:

- Object markers shall be stationary mounted on wood or metal posts in accordance with the requirements in Section 82, “Markers and Delineators,” of the CSS.
- Marker panels for Type N, Type P, and Type R object markers shall conform to the requirements for sign panels for stationary mounted signs.
- Target plates for Type K and Type L object markers, and posts, reflectors, and hardware shall conform to the requirements in Section 82 “Markers and Delineators” of the CSS, but need not be new.

c. Measurement and Payment: Full compensation for furnishing, placing, maintaining, and removing construction area signs shall be considered as included in the contract prices paid for the various items of work involved and no additional compensation will be allowed therefor.

## **9.00 Project Appearance**

a. Description: The Contractor shall maintain a neat appearance at the work site in all areas visible to the public. Broken concrete, asphalt concrete, soil, and debris developed during construction shall be disposed of concurrently with its removal.

Stockpiling shall be permitted only with the approval of the Engineer and only in approved locations.

The Contractor shall sweep the streets daily within the project area as directed by the Engineer for the duration of the project. The Contractor shall not sweep construction materials or other debris onto private properties.

The Contractor shall be responsible for any and all damage to public and private property (including trees, plants, shrubs, fences, etc.) and shall replace with new material or correct any damaged property to the satisfaction of the Engineer.

b. Measurement and Payment: Full compensation for maintaining an acceptable project appearance shall be considered as included in the contract prices paid for the various items of work involved and additional compensation will be allowed therefor.

## **10.00 Clearing and Grubbing**

a. Description: Clearing and grubbing shall conform to the requirements of the City of Morgan Hill and to the provisions of Section 15.3 and 16 of the CSS and these Technical Provisions, and the plans.

- This work shall consist of removing existing facilities and all objectionable material, including existing concrete and/or asphalt from within the limits of the project as specified. The limits of clearing and grubbing shall be of sufficient area and depth to complete the work as shown on the plans or described in these Technical Provisions, and will include excavation and grading as necessary to complete the work. Work shall also include removal and disposal of unsuitable material within and along the edge of pavement, and trimming of trees as needed for operation of equipment. Also included is removal of traffic bars, thermoplastic striping four (4)-inches and wider, and raised pavement markers from areas to receive AC overlay and as shown on the plans or directed by the Engineer. If, in the opinion of the Engineer, the pavement surface has been damaged as a result of pavement marker removal, the Contractor shall repair said damage in a manner acceptable to the Engineer at the Contractor's expense.

Contractor shall allow seven (7) days after spray of weeds within or at edges of pavement to ensure successful eradication prior to crack seal and/or slurry seal operations. If unsuccessful, Contractor shall respray.

All striping, markings or pavement markers within areas to be removed by grinding or base repair as specified on the plans shall be removed and disposed of as part of the contract items of work involved.

b. Measurement and Payment - Full compensation for clearing, grubbing, removal, hauling and disposal of items is included in the contract items of work involved and no additional compensation will be allowed therefor. This includes raised pavement markers, thermoplastic striping and legends.

## **11.00 Pavement Milling**

a. Description: Pavement milling shall consist of cold milling existing asphalt concrete in areas to receive asphalt concrete mill and overlay treatments as shown on the plans and described in these technical specifications. Grinding shall be in conformance with Section 42-2 "Grinding" of the CSS.

Pavement cold milling shall be parallel to the direction of traffic at a uniform depth of 50mm (2" or .17'). Any sections of asphalt that becomes loose after wedge grinding shall be removed and disposed of by the Contractor at the Contractor's expense.

Pavement milling shall not be allowed more than 48 hours prior to schedule overlay (fill) operations without written authorization from the Engineer.

Cold milling machines shall be operated so as not to produce fumes or smoke. They shall be capable of planning/milling the pavement without requiring the use of a heating device to soften the pavement during, or prior to, the cutting operation.

The Contractor shall be responsible for maintaining all milled surfaces in order to prevent tire and suspension damage to vehicles and to prevent hazards to bicyclists and pedestrians.

***Pavement milling at corners, returns and hard to get areas shall be done with special grinding equipment capable of grinding such areas. Pavement grinding may encounter existing paving fabric on previously overlaid streets. No additional payment will be made for this condition.***

No drop-off shall remain between the existing pavement and the milled area when the pavement is opened to public traffic. If asphalt concrete has not been placed to the level of existing pavement before the pavement is to be opened to public traffic, a temporary asphalt concrete taper shall be constructed. Asphalt concrete for temporary tapers shall be placed to the level of the existing pavement and tapered on a slope of 12:1 or flatter to the level of the milled area. The same method shall be used on all structures that are left above the traveled asphalt surface.

Asphalt concrete for tapers may be spread and compacted by any method that will produce a smooth transition in the riding surface. Asphalt concrete tapers shall be completely removed, including removing all loose material from the underlying surface,

before placing the permanent surfacing. Kraft paper, or other approved bond breaker, may be placed under the conform tapers to facilitate the removal of the taper.

The material collected from pavement grinding operations from the roadway surface shall be immediately removed from the site of the work. The removal crew shall follow within fifty feet (50') of the milling/wedge cutting machine, unless otherwise directed by the Engineer.

All pavement repairs designated to be performed within the areas to receive pavement grinding shall be dug out to a depth of 6 inches as required and replaced with as much AC thickness as it takes to bring the surface to a grade where the surrounding grade will be after pavement grinding.

b. Measurement and Payment: The contract unit price per square foot for "2-inch Mill and Remove" includes full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved, complete in place, including traffic control, street sweeping, off haul of grindings, as shown on the plans, as specified in the CSS and these Technical Provisions, and as directed by the Engineer.

## 12.00 Asphalt Concrete

**Note: No percentage of RAP (Reclaimed Asphalt Pavement) shall be permitted in the asphalt concrete placed as the final lift/wearing course on any of the city streets to be overlaid with this project.**

a. Description: Asphalt concrete shall be used as an overlay (fill), a leveling course and depth AC pavement repair. New pavement shall be furnished, placed, and compacted in accordance with Section 39 "Asphalt Concrete" of the CSS. Asphalt Concrete shall be compacted to a minimum 95 percent of Maximum Theoretical Density as determined by American Society of Testing Materials (ASTM) D-2041. Finished asphalt concrete pavements, which do not conform to the specified relative compaction requirements, will be paid for using the following pay factors:

<u>In-Place Relative Compaction</u>	<u>Pay Factor</u>
95% or greater	100%
90-94.9%	20% Reduction in unit price
89.9% or less	Remove & Replace as directed

b. Materials: The asphalt concrete for overlay shall be Type A, 12.5 mm (1/2") medium maximum gradation. The asphalt concrete for leveling course shall be Type A, 9.5 mm (3/8") maximum gradation and full depth AC pavement repair shall be Type A, 19 mm (3/4") medium maximum gradation.



Asphalt binder shall be PG 64-10.

Asphalt shall conform to these Technical Provisions and not Section 92, "Asphalts," of the CSS.

Asphalt shall consist of refined petroleum or a mixture of refined liquid asphalt and refined solid asphalt, prepared from crude petroleum. Asphalt shall be:

- a. Free from residues caused by the artificial distillation of coal, coal tar, or paraffin.
- b. Free from water.
- c. Homogeneous.

The Contractor shall furnish asphalt in conformance with Caltrans' "Certification Program for Suppliers of Asphalt." Caltrans maintains the program requirements, procedures, and a list of approved suppliers at:

<http://www.dot.ca.gov/hq/esc/Translab/fpmcoc.htm>

The Contractor shall ensure the safe transportation, storage, use, and disposal of asphalt.

The Contractor shall prevent the formation of carbonized particles caused by overheating asphalt during manufacturing or construction.  
Performance graded (PG) asphalt binder shall conform to the following:

Performance Graded Asphalt Binder						
Property	AASHTO Test Method	Specification Grade				
		PG 58-22 <sup>a</sup>	PG 64-10	PG 64-16	PG 64-28	PG 70-10
Original Binder						
Flash Point, Minimum °C	T48	230	230	230	230	230
Solubility, Minimum % <sup>b</sup>	T44	99	99	99	99	99
Viscosity at 135°C, <sup>c</sup> Maximum, Pa·s	T316	3.0	3.0	3.0	3.0	3.0
Dynamic Shear, Test Temp. at 10 rad/s, °C Minimum G*/sin(delta), kPa	T315	58 1.00	64 1.00	64 1.00	64 1.00	70 1.00
RTFO Test <sup>e</sup> , Mass Loss, Maximum, %	T240	1.00	1.00	1.00	1.00	1.00
RTFO Test Aged Binder						
Dynamic Shear, Test Temp. at 10 rad/s, °C Minimum G*/sin(delta),	T315	58 2.20	64 2.20	64 2.20	64 2.20	70 2.20

kPa						
Ductility at 25°C Minimum, cm	T51	75	75	75	75	75
PAV <sup>f</sup> Aging, Temperature, °C	R28	100	100	100	100	110
RTFO Test and PAV Aged Binder						
Dynamic Shear, Test Temp. at 10 rad/s, °C Minimum G* $\sin(\delta)$ , kPa	T315	22 <sup>d</sup> 5000	31 <sup>d</sup> 5000	28 <sup>d</sup> 5000	22 <sup>d</sup> 5000	34 <sup>d</sup> 5000
Creep Stiffness, Test Temperature, °C Maximum S-value, MPa Minimum M-value	T313	-12 300 0.300	0 300 0.300	-6 300 0.300	-18 300 0.300	0 300 0.300

Notes:

- For use as asphalt rubber base stock for high mountain and high desert area.
- The Engineer will waive this specification if the supplier is a Quality Supplier as defined by the Caltrans' "Certification Program for Suppliers of Asphalt."
- The Engineer will waive this specification if the supplier certifies the asphalt binder can be adequately pumped and mixed at temperatures meeting applicable safety standards.
- Test the sample at 3°C higher if it fails at the specified test temperature. G\* $\sin(\delta)$  shall remain 5000 kPa maximum.
- "RTFO Test" means the asphaltic residue obtained using the Rolling Thin Film Oven Test, AASHTO Test Method T240 or ASTM Designation: D 2827.
- "PAV" means Pressurized Aging Vessel.

Performance based asphalt (PBA) binder shall conform to the following:

Performance Based Asphalt Binder

Property	AASHTO Test Method	Specification Grade			
		PBA 6a	PBA 6a(mod)	PBA 6b	PBA 7
Absolute Viscosity (60°C), Pa·s( $\times 10^{-1}$ ) <sup>a</sup> Original Binder, Minimum RTFO Test Aged Residue <sup>b</sup> , Minimum	T202	2000 5000	2000 5000	2000 5000	1100 3000
Kinematic Viscosity (135°C), m <sup>2</sup> /s( $\times 10^{-6}$ ) Original Binder, Maximum RTFO Test Aged Residue, Minimum	T201	2000 275	2000 275	2000 275	2000 275
Absolute Viscosity Ratio (60°C), Maximum RTFO Test Visc./Orig. Visc.	—	4.0	4.0	4.0	4.0
Flash Point, Cleveland Open Cup, °C Original Binder, Minimum	T48	232	232	232	232
Mass Loss After RTFO Test, %	T240	0.60	0.60	0.60	0.60

Solubility in Trichloroethylene, % <sup>c</sup> Original Binder, Minimum	T44	Report	Report	Report	Report
Ductility (25°C, 5 cm/min), cm RTFO Test Aged Residue <sup>b</sup> , Minimum	T51	60	60	60	75
On RTFO Test Aged Residue, °C 1 to 10 rad/sec: SSD <sup>e</sup> ≥ 0 and Phase Angle (at 1 rad/sec) < 72°	f	—	35	—	—
On Residue from: PAV <sup>g</sup> at temp., °C Or Residue from Tilt Oven <sup>f</sup> (@113°C), hours	R28	100 36	100 36	100 36	110 72
° SSD ≥ -115(SSV)-50.6, °C	f	—	—	—	25
Stiffness, Test Temperature, °C Maximum S-value, MPa Minimum M-value	T313	-24 300 0.300	-24 300 0.300	-30 300 0.300	-6 300 0.300

Notes:

- Absolute viscosity (60°C) will be determined at one sec<sup>-1</sup> using ASTM Designation: D 4957 with Asphalt Institute vacuum capillary viscometers.
- "RTFO Test Aged Residue" means the asphaltic residue obtained using the Rolling Thin Film Oven Test (RTFO Test), AASHTO Test Method T240 or ASTM Designation: D 2827.
- There is no requirement; however results of the test shall be part of the copy of test results furnished with the Certificate of Compliance.
- "Residue from Tilt Oven " means the asphalt obtained using California Test 374, Method B, "Method for Determining Asphalt Durability Using the California Tilt-Oven Durability Test."
- "SSD" means Shear Susceptibility of Delta; "SSV" means Shear Susceptibility of Viscosity.
- California Test 381.
- "PAV" means Pressurized Aging Vessel.

The Contractor shall provide a sampling device in the asphalt feed line connecting the plant storage tanks to the asphalt weighing system or spray bar. The sampling device shall be accessible between 600 and 750 mm above the platform. The Contractor shall provide a receptacle for flushing the sampling device.

The sampling device shall include a valve:

- With a diameter between 10 and 20 mm.
- Manufactured in a manner that an one-liter sample may be taken slowly at any time during plant operations.
- Maintained in good condition.

The Contractor shall replace failed valves.

In the presence of the Engineer, the Contractor shall take 2 one-liter samples per

operating day. The Contractor shall provide round friction top containers with one-liter capacity for storing samples.

Unless otherwise specified, the Contractor shall heat and apply asphalt in conformance with the provisions in Section 93, "Liquid Asphalts."

The Contractor shall apply paving asphalt at a temperature between 120° and 190°C. The Engineer will determine the exact temperature of paving asphalt.

a. Paint Binder (Tack Coat): Paint binder shall be applied to all horizontal and vertical surfaces to receive asphalt concrete surfacing. Paint binder shall be furnished and applied in accordance with Section 39-4.01, "Subgrade", Section 93 "Liquid Asphalts", and Section 94 "Asphaltic Emulsions".

b. Measurement and Payment: Full compensation for asphalt concrete shall be considered as included in the contract prices paid for "Asphalt Concrete Overlay" and "Full Depth AC Pavement Repair," and no additional payment will be made therefor.

### **13.00 Asphalt Concrete Leveling Course**

a. Description: The surface of the existing road is distorted, construction of leveling courses or leveling wedges are required to restore the proper line and cross-section. Existing pavement on Llagas Road, Tennant Avenue and Watsonville Road shall have leveling courses placed, and compacted in accordance with Section 39 "Asphalt Concrete" of the CSS.

The leveling course of asphalt concrete shall include, but is not limited to, the filling and leveling of ruts, humps, depressions or irregularities. Leveling courses shall be placed in lifts of no more than 75 mm (3"). In placing multiple layers, the layer of shortest length shall be placed first with the successive layer or layers extending over or covering the short ones.

Any ridges, indentations or other objectionable marks left in the surface of the asphalt concrete shall be eliminated by rolling or other means. The use of any equipment that leaves ridges, indentations or other objectionable marks in the asphalt concrete shall be discontinued. Asphalt concrete leveling course shall include the application of a paint binder.

In addition to the requirements in Section 39-5.01, "Spreading Equipment," of the CSS, asphalt-paving equipment shall be equipped with automatic screed controls and a sensing device or devices. When placing asphalt concrete, the automatic controls shall control the longitudinal grade and transverse slope of the screed. Grade and slope references shall be furnished, installed and maintained by the Contractor. Ski devices shall be a minimum length of at least 30 feet with a rigid one-piece unit whereby the entire length activates the sensor.

Should the method and equipment furnished by the Contractor fail to produce a layer of asphalt concrete conforming to the requirements, including straightedge tolerance of Section 39-6.03, "Compacting", the paving operations shall be discontinued upon notice of the Engineer, and the Contractor shall modify his equipment or furnish substitute equipment within three (3) working days of such notice of the Engineer.

The area to which paint binder has been applied shall be closed to public traffic. All possible care shall be taken to avoid tracking binder material onto existing pavement surfaces beyond the limits of construction. A drop-off of more than 0.10-foot will not be allowed at any time between adjacent lanes open to public traffic.

The Contractor shall be responsible for temporary pavement delineation and markings as required by the Engineer for the maintenance of a safe traveled way. The Contractor shall be responsible for providing a safe and well-marked roadway. This shall include providing temporary striping during evening and weekend hours if specified by the Engineer.

b. Materials: The asphalt concrete for overlay shall be Type A, 9.5 mm (3/8") medium maximum gradation, in accordance with CSS. Asphalt binder shall be PG 64-10.

c. Paint Binder (Tack Coat): Paint binder shall be applied to all horizontal and vertical surfaces to receive asphalt concrete surfacing. Paint binder shall be furnished and applied in accordance with Sections 39-4.01 "Subgrade", 93 "Liquid Asphalts" and 94 "Asphaltic Emulsions" of the CSS.

d. Measurement and Payment: Asphalt Concrete Leveling Course shall be measured by the ton compacted in place in accordance with Section 39-8.01 "Measurement" of the CSS. No payment shall be made for materials placed outside of the limits marked by the Engineer. The contract unit cost for Asphalt Concrete Leveling Course shall include full compensation for furnishing all labor, material, equipment, tools, and incidentals and for doing all the work involved in placing asphalt concrete leveling course, compacting in place, as described above as specified in these specifications and as directed by the Engineer including staged construction, temporary conforms, traffic control, flagging, temporary striping and delineation, prime coats, tack coats and paint binders.

## **14.00 Paving Mat**

a. Description: Paving Mat shall be placed as designated on the plans or as directed by the Engineer on East Dunne Avenue and Tennant Avenue. The work shall consist of furnishing and installing a fiberglass/polyester interlayer-paving mat at the location shown on the plans and as described in these technical specifications.

b. Material: Paving Mat shall conform to the requirements of "TruPave" by Owens Corning or approved equal. The mat manufacturer shall furnish a letter of

certification covering the physical and engineering properties of the mat per these specifications. Materials submitted as “or equals” shall provide project lists showing placement of the “or equal” material on at least five years of projects in California prior to the current year. Materials not meeting all requirements shall not be considered.

The paving mat shall be constructed of a wet-formed nonwoven material consisting of at least 60% fiberglass (by weight) or as approved by Engineer, with the remainder comprised of polyester and binder. The material shall have a minimum average roll value (MARV) unit weight of 3.69 oz./sq. yd (125 g/m<sup>2</sup>). The material shall be resistant to chemicals, mildew and rot, and shall not have any tears or holes that will adversely affect the in-situ performance and physical properties of the installed material. The paving mat shall meet the following physical requirements as follows:

Property	Test Method	Units	Typical Value
Mass per unit area	ASTM D5261	g/m <sup>2</sup> (oz/yd <sup>2</sup> )	136 (4.0)
Tensile strength, MD	ASTM D5035 <sup>(1)</sup>	N/50 mm (lb/2 in)	> 200 (45)
Tensile Strength, CD	ASTM D5035	N/50 mm (lb/2 in)	> 200 (45)
Elongation at maximum load, MD	ASTM D5035	percent	< 5
Elongation at maximum load, CD	ASTM D5035	percent	< 5
Melting point	ASTM D276	C ( F)	> 230 (> 446)

<sup>(1)</sup> Suggested conditions for tensile strength measurements:

Sample width: 50 mm

Gage length: 175 mm

Sample length: 250 mm

Crosshead speed: 50 mm/min

c. Application: Paving mat shall be installed over hot asphalt tack coat. The use of cutbacks, emulsion or materials containing solvents shall not be permitted for use as tack coat. Hot applied asphalt cement tack coat shall be AC-20, PG64-22, AR-8000 or 60-80 penetration grade of asphalt applied at a rate of 0.21 to 0.25 gallons per square yard (g/sy). If atmospheric temperatures are above 100°F, then AC-30, PG67-22, AR-8000 or 40-60 should be used. The temperature of the tack coat should not drop below 280°F with a maximum temperature of 400°F.

*NOTE: Residue grades such as AR grades do not specify initial viscosity. Bituminous materials specified for Fiberglass polyester engineered paving mat installation should have initial or un-aged viscosities corresponding to the above AC grades.*

The tack coat shall be applied in a uniform application to sufficiently cover the surface prior to the installation of the paving mat. The surface shall be dry and free and clear of all debris and loose materials prior to the installation of the tack coat by using a power broom to sweep and vacuum the pavement. Any and all pavement repairs to be made shall be made at the direction of the engineer prior to the installation of the tack coat. All cracks greater than ¼ inch in width shall be filled with an approved material. Any irregular surface conditions shall be leveled by the use of a bituminous wedge or

scratch course installed by hand or with the use of a mechanically powered asphalt-paving machine.

The application width of tack coat shall be sufficiently wide to cover the entire width of the paving mat, plus any additional width required for overlapping joints. The tack coat shall be applied only as far in advance of the mat installation to ensure a tacky surface at the time of the mat installation. Traffic shall not be permitted to drive on the tack coat at any time.

Excess tack coat shall be cleaned from the pavement. Vehicular traffic shall not be allowed on the prepared surface (tack coat and paving mat) until the finish course of asphalt concrete is placed. Asphalt concrete overlay specifications shall apply for determining when the surface shall be opened to traffic.

Paving mat shall be overlapped to provide a minimum of 2 inches (5.1 cm) longitudinally and a minimum of 4 inches (10.2 cm) transversely. Overlaps on the transverse roll ends shall be in the direction of the paving operation to avoid paving mat pick-up during asphalt installation. All overlapping of paving mat shall be tack coated to ensure proper adhesion.

Mat shall be installed to the surface using mechanically powered installation equipment or by hand installed means. Mechanical equipment shall be capable of installing full width rolls of up to 12.5 feet in width. The installation by hand may also be used in situations where mechanically installed methods cannot be accomplished. Brooms or squeegees shall be used to remove any air bubbles and ensure paving mat is completely in contact with the tack-coated surface. If wrinkles occur, any wrinkle (1 inch) shall be slit and lapped in the direction of paving and seated into the tack coat to ensure adhesion.

d. Measurement and Payment: Installation of Paving Mat shall be measured per square yard based on the area outlined and marked by the City. Overlaps in the paving mat will not be measured and included in the payment quantities. The contract unit price paid per square yard for "Paving Mat" shall include full compensation for furnishing all labor, tools, equipment, materials, and incidentals and for doing all work involved in installing paving mat, complete in place, including tack oil, traffic control, and all other related work as specified in the Technical Provisions and as directed by the Engineer.

## **15.00 Asphalt Concrete Overlay**

a. Description: The edges of the existing road or where designated shall be milled to a uniform depth, than overlain with asphalt concrete; thickness for mill and overlay shall be 50 mm (2" or .17'). See "Pavement Milling" section for technical specifications on milling.

The surface, when compacted, shall be smooth, dense, well bonded, and of uniform texture and appearance. The compacted surface course of asphalt concrete shall

be free from ruts, humps, depressions or irregularities. When a straightedge 3.6 meters (12 feet) long is laid on the finished surface and parallel with the centerline of the road or driveway, the surface shall not vary more than .006 meters (0.02 foot) from the lower edge of the straightedge. The transverse slope of the finished surface shall be uniform to a degree such that no depressions greater than 0.02 foot are present when tested with a straight-edge 12 feet long laid in a direction transverse to the center line and extending from edge to edge of a 3.05 meter (10 foot) pass.

Any ridges, indentations or other objectionable marks left in the surface of the asphalt concrete shall be eliminated by rolling or other means. The use of any equipment that leaves ridges, indentations or other objectionable marks in the asphalt concrete shall be discontinued. Asphalt concrete pavement shall include the application of a paint binder.

In addition to the requirements in Section 39-5.01, "Spreading Equipment," of the CSS, asphalt-paving equipment shall be equipped with automatic screed controls and a sensing device or devices. When placing asphalt concrete the automatic controls shall control the longitudinal grade and transverse slope of the screed. Grade and slope references shall be furnished, installed and maintained by the Contractor. Ski devices shall be a minimum length of at least 30 feet with a rigid one-piece unit whereby the entire length activates the sensor.

When placing contiguously with previously placed mats, the end of the screed adjacent to the previously placed mat shall be controlled by a sensor that responds to grade of the previously placed mat and will reproduce the grade in the new mat within a 0.01-foot tolerance.

Should the method and equipment furnished by the Contractor fail to produce a layer of asphalt concrete conforming to the above requirements, including straightedge tolerance of Section 39-6.03, the paving operations shall be discontinued upon notice of the Engineer, and the Contractor shall modify his equipment or furnish substitute equipment within three (3) working days of such notice of the Engineer.

The area to which paint binder has been applied shall be closed to public traffic. All possible care shall be taken to avoid tracking binder material onto existing pavement surfaces beyond the limits of construction. A drop-off of more than 0.10-foot will not be allowed at any time between adjacent lanes open to public traffic.

The Contractor shall be responsible for temporary pavement delineation and markings as required by the Engineer for the maintenance of a safe traveled way. The Contractor shall be responsible for providing a safe and well-marked roadway. This shall include providing temporary striping during evening and weekend hours if specified by the Engineer.

b. Materials: The asphalt concrete for overlay shall be Type A, 12.5 mm (½") medium maximum gradation, in accordance with CSS. Asphalt binder shall be PG 64-



10. **No percentage of RAP (Reclaimed Asphalt Pavement) shall be permitted in the asphalt concrete placed as the final lift/wearing course on any of the city streets to be overlaid with this project.**

c. Paint Binder (Tack Coat): Paint binder shall be applied to all horizontal and vertical surfaces to receive asphalt concrete surfacing. Paint binder shall be furnished and applied in accordance with Sections 39-4.01 "Subgrade", and Section 93 "Liquid Asphalts", and Section 94 "Asphaltic Emulsions".

d. Measurement and Payment: Asphalt Concrete Overlay shall be measured by the ton compacted in place in accordance with Section 39-8.01 "Measurement" of the CSS. No payment shall be made for materials placed outside of the limits marked by the Engineer. The contract unit prices paid per ton for "Asphalt Concrete Overlay (2")" shall include full compensation for furnishing all labor, material, equipment, tools, and incidentals and for doing all work involved in installing asphalt concrete, complete in place, including staged construction, temporary conforms, traffic control, flagging, temporary striping and delineation, prime coats, tack coats and paint binders as described above, as shown on the plans, as specified herein and as directed by the Engineer.

#### **16.00 Full Depth AC Pavement Repair**

a. Description: **The streets to have areas of full depth AC pavement work performed on shall include but not be limited to: Dunne Avenue from Monterey Road to Gallop Drive, Tennant Avenue from Church Street to the Highway 101 southbound off-ramp, Monterey Road from Dunne Avenue to East Middle Avenue, Wright Avenue between Monterey Road and Peak Avenue.** Areas designated by the Engineer shall be dug out to a depth of 150 mm (6 inches), (milling is recommended and preferred) removed and replaced with full-depth AC, unless otherwise directed by the Engineer. The AC shall be placed in two or three lifts with the uppermost lift of not less than 0.15 ft. or more than 0.20 ft. The minimum width of any repair shall be as field marked.

The Contractor shall make all arrangements for disposal of excavated materials. All edges shall be saw-cut unless otherwise approved by the Engineer. Asphalt concrete in repair sections shall be placed in lifts in accordance with Section 39-6 "Spreading and Compacting", and shall be Type A, 3/4" maximum, medium gradation per Section 39-2, "Materials" of the CSS. Removed materials shall be disposed of legally.

The material remaining in place, after removing surfacing and base, to the required depth, shall be graded to a plane, watered and compacted to 95 percent relative compaction. After compaction and prior to the placing of asphalt concrete, the vertical edges of the existing pavement shall receive a tack coat. The finished surface of the remaining material shall not extend above the grade established by the Engineer.

b. Unsuitable Material: In the event that the underlying subbase material is unsuitable, it shall be excavated below the depth required above and disposed of. The limits of removal shall be designated by the Engineer and shall be in one-inch

increments. Compensation shall be at a per inch price based on the bid for a 6-inch deep pavement repair divided by 6 for each additional inch of depth. The resulting space shall be filled with a single lift of asphalt concrete.

Unsuitable material is defined as material the Engineer determines to be:

1. Of such unstable nature as to be incapable of being compacted to specified density using ordinary methods at optimum moisture content; or
2. Too wet to be properly compacted and circumstances prevent suitable in-place drying prior to incorporation into the work; or
3. Otherwise unsuitable for the planned use.

c. Measurement and Payment: Full Depth AC Pavement Repair shall be measured by the square foot as marked in the field by the Engineer. No payment shall be made for materials placed outside of the limits marked by the Engineer. The contract unit prices paid per square foot for "Full Depth AC Pavement Repair" shall include full compensation for furnishing all labor, material, equipment, tools, and all other incidentals and for doing all work involved in furnishing and placing 6 inch full depth AC pavement repair, complete in place, including staged construction, temporary conforms, traffic control, flagging, temporary striping and delineation, prime coats, tack coats, and paint binders, as specified herein and as directed by the Engineer.

**Additional depth or repair shall be compensated at a "per inch" price obtained based on dividing the 6-inch full depth AC Pavement repair unit price by 6 inches. Likewise, the reduction in depth or repair shall be credited to the City on a "per inch" basis obtained by dividing the 6-inch full depth AC Pavement repair unit price by 6 inches. There will be no price negotiations on the contract unit price paid for the bid items for full-depth AC pavement repair or additional 1" repair or 2" reduction in repair thickness even if the actual amount of work is different from the Engineer's Estimate by 25% or greater.**

## **17.00 Crack Seal**

a. Description. **The streets to be crack sealed shall include but not be limited to: Dunne Avenue from Monterey Road to Gallop Drive, Tennant Avenue from Church Street to the Highway 101 southbound off-ramp, Monterey Road from Dunne Avenue to East Middle Avenue and Cochrane Road between Monterey Road and Mission View Drive.** This work shall include sealing all pavement cracks up to 3/8-inch in width or as directed by the Engineer, for the full length visible including cracking around all manholes, water valve boxes, monuments and traffic signal loops. Crack sealing shall be performed after the following item of work has been performed: full depth ac pavement repair. If wet pavement conditions exist, the Contractor shall reschedule with the Engineer an appropriate time to crack seal. The Engineer shall make final determination of the crack seal schedule to be followed.

b. Material: Crack sealing material shall be hot applied asphalt sealing compound, Koch Material Co. Flex-A-Fill or approved equal. Material shall be applied at a temperature between 350 and 400 degrees Fahrenheit. Material shall be of a type so as to not track, string or in any way be transferred to traffic after initial setting of the material. All due care and diligence shall be used to ensure the proper placing and setting of the material prior to allowing traffic on it.

c. Method of Construction: The street shall be swept with a power broom before start of application of crack seal. Cracks in the street pavements shall be sealed with hot applied sealing compound after cleaning of the cracks with a hot air lance. Routing of the cracks is not required, but cracks shall be blown out by compressed air prior to sealing operations. The crack sealant shall be applied in such a manner that it shall not protrude above the surface more than 1/4 inch. Any material more than 1/4 inch above the crack shall be spread with a squeegee to obtain a level surface over the filled crack. All cracks shall be free of moisture prior to sealing. No moisture shall be visible on the street at the time of sealant placement.

In the event the material is transferred to vehicles prior to the opening of the street to traffic, the Contractor shall be responsible for cleaning those vehicles to the satisfaction of the Engineer and the vehicle owner.

d. Measurement and Payment: Crack sealing shall be measured per lineal foot of crack receiving sealant. Payment for the crack seal work shall be per linear foot of sealant applied as necessary to seal all cracks and shall include furnishing all labor, materials, and equipment for transporting and placement of crack seal including all traffic control in accordance with Caltrans specifications and as modified by these special provisions and no additional payment shall be made therefore.

## **18.00 Locate and Raise/Adjust Manholes and Other Structures to Grade**

a. Description: This work shall consist of raising all manholes, water valve covers and similar sized boxes on Monterey Road, Mission View Drive, Llagas Road, Tennant Avenue and Watsonville Road in street areas such as street monuments in accordance with City Standard Detail SD-1 and City Standard Detail W-8. All manholes, valves covers, and similar sized boxes must be exposed within 24 hours and the structures raised to grade and paved within 72 hours of being covered. The Contractor shall pay the City liquidated damages of \$500 per calendar day, for each day the Contractor fails to raise the structures to grade after a three calendar day period after being covered during the Contractor's operations.

b. Materials: Materials shall be furnished in conformance with City Standards, detail drawings in the Appendix and the appropriate Sections of the California Standard Specifications.

c. Measurement and Payment: Adjust structures to grade shall be measured by each unit raised including concrete collar, concrete and grouting. No additional or separate payment shall be made therefore. The contract unit price for "Locate and Raise Water Valve Box/Lid", "Locate and Raise Manhole Frame/Cover", "Locate and Raise Monitoring Well Box/Lid", and "Locate and Raise Detector Hand Hole Box/Lid" shall include full compensation for furnishing all labor, materials, equipment, tools and incidentals, and for doing all work involved in raising the utilities as shown on the plans, as specified herein and as directed by the Engineer.

## **19.00 Traffic Stripes, Pavement Markings and Raised Reflective Markers**

a. Description: This work shall be done in accordance with Sections 84 and 85 of the CSS, as modified by these Technical Provisions. Traffic stripes and pavement marking items shall include replacing all existing traffic stripes, words, and symbols, reflective and non-reflective pavement markers, and fire hydrant blue marker as required on the streets to be resurfaced. Included also is any necessary removal, temporary delineation, site survey of existing layout and traffic control. It may be necessary to phase the construction of the striping in the interest of public safety. This work includes as-builtting the existing striping layout and replacing said striping back to the original layout unless otherwise directed by the Engineer in writing.

The Contractor shall install striping, where possible, prior to opening the roadway to traffic and when indicated by the public's safety or convenience. If required, removal of existing striping shall be by wet sand blasting. All traffic stripes and pavement markings, new or existing, within or adjacent to the work limits, which become defaced or damaged during the Contractor's operations, shall be replaced by the Contractor at its expense concurrently with other traffic marking operations in the immediate area. The Engineer shall be the sole judge as to which stripes or legends are defaced or damaged.

All new traffic striping shall include the reflective markers in conformance with the Caltrans Traffic Manual.

b. Materials: Materials shall be in conformance with CSS Section 84-2 "Thermoplastic Traffic Stripes and Pavement Markings", Section 84-3 "Painted Traffic Stripes" and Pavement Markings", and Section 85 "Pavement Markers". Thermoplastic material for traffic stripes shall be applied at a minimum thickness of 0.060 inch, except crosswalks shall be applied at a minimum thickness of 0.12 inch. All crosswalks and bike lane striping shall be non-skid. Thermoplastic material for pavement markings shall be applied at a thickness of .100-.150 inch. All streets are to receive thermoplastic stripes and pavement markings.

Templates or stencils for pavement markings shall be of "English unit" dimensions and shall be approved by the Engineer prior to application.

c. Method of Construction: Construction and installation shall be per Sections 84 and 85 of the CSS. Removal of existing facilities shall be per Section 15-2.02B and 15-2.02C of the CSS.

Temporary "cat tracks" shall be placed for all striping (including limit lines) immediately after completing sealing or overlay of any street.

All streets shall receive the first coat of permanent centerline, lane lines, stop limit lines, and crosswalks no sooner than 72 hours and no later than 96 hours following resurfacing of the street. The Contractor shall pay the City liquidated damages of \$500 per calendar day, for each day the Contractor fails to replace the striping and markings after the four calendar day period.

Pavement marker (blue marker) shall be per the requirements of the State Standard Plans.

d. Temporary Traffic Stripes and Pavement Markings: "Scrub seal Marker," as distributed by MV Plastics, Inc., 533 W. Collings Avenue, Orange, CA 714-532-1522, or approved equal, shall be used for temporary traffic stripes and shall be installed at 24' spacing, immediately after obliteration of any existing striping.

All other traffic control and safety markings such as crosswalks, arrows, lane tapers, etc. shall be marked using paint or reflective tape.

e. Layout: All layout and cat tracking shall be performed by and at the expense of the Contractor, and shall be approved by the Engineer prior to placement of striping or markings.

f. Traffic Stripes: Unless otherwise stated, all striping shall be hot liquid thermoplastic. All areas to receive traffic stripes shall be swept immediately prior to applying thermoplastic to remove all loose rock.

g. Pavement Markers: All markers shall be placed using hot melt bituminous adhesive exclusively. All non-reflective markers shall be the ceramic type.

h. Pavement Markings: Legends, crosswalks, and stop bars, shall be thermoplastic unless otherwise stated. When thermoplastic is applied for crosswalks or bike lane striping, the following composition shall be used with a maximum thickness of 0.12 inches (3.0 mm):

Binder	20%	(18% min)
Glass Beads	20%	(15% min)
TiO <sub>2</sub> Pigment	10%	(7%min)
Filler	35%	(37% max)
Cullet	15 %	(10% min)

The crushed glass cullet in such mixture shall be produced from cullet of clear glass, with a maximum size of 850 micrometers (100% passing by weight) and a minimum size of 425 micrometers (0-5% passing by weight). The skid resistance shall be a minimum of 55 BPN.

i. Measurement and Payment: Pavement markers used in traffic striping shall not be measured separately. The quantity for pavement stripes shall be the actual number lineal feet as measured in the field. For striping requiring multiple lines, the composite section will count as a lineal foot of striping for payment, not the total length of the individual component lines. The quantity for payment for the pavement markings shall be per each for each individual marking/legend. Measurement for removal shall be included in the unit price for stripes and markings. No additional or separate payment for removals shall be made therefor.

Traffic stripes will be measured by the linear foot, Pavement Markings, Surface Mounted Channelizers and Blue Hydrant Markers by each unit. The contract unit cost paid per linear feet for "Traffic Stripes," per each for "Pavement Markings", "Surface Mounted Channelizers" and "Blue Hydrant Markers" of the types shown in the Bid Schedule, includes full compensation for furnishing all labor, material, equipment, tools, and incidentals and for doing all the work involved in furnishing and installing traffic stripes, pavement markings, and pavement markers, complete in place, including removal of existing pavement delineation, layout, and temporary pavement delineation, as shown on the plans, as specified herein and as directed by the Engineer.

## **20.00 Traffic Signal Detector Loops**

a. Description: Where existing loops are removed or as directed by the Engineer, existing detector loops shall be replaced. Detectors shall conform to Section 86-5, "Detectors" of the CSS and these Technical Provisions. Loop configuration shall be Type E or Type E modified. Loop wire shall be Type 2 to match existing. Detector lead-in cable shall be Type B and no splices are permitted in lead-in cables. Loop sealant shall be hot melt type. The Contractor shall identify loop wires by lane number, loop number, and start/finish using tie wraps and permanent marker.

Loops shall be centered within traffic lanes unless otherwise specified. If any iron (manhole, valve, monument, etc.) is located within two (2) feet of the planned location for home runs or the detector loop, the Contractor shall contact the Engineer for an alternate location for the detector loop or home run prior to cutting any of the loops or home runs in the affected lanes(s).

If any part of the loop conductor, including the portion leading to the adjacent pull box, is damaged by the Contractor's operations, the entire detector loop shall be replaced. If any adjacent loop is damaged during such work, that loop shall be replaced within seven (7) calendar days. The Contractor shall pay the City liquidated damages of \$500 per calendar day, for each day the Contractor fails to replace a damaged loop after the seven calendar day period.

The Contractor shall test all individual loops and all DLC prior to splicing. The Contractor shall test loop sensitivity with either an approved lightweight motorcycle or an Engineer-approved wind wand.

b. Measurement and Payment: Detector loops shall be measured by each replaced loop from actual count. The contract unit price paid per each for “Traffic Signal Detector Loops” shall include full compensation for furnishing all labor, materials, equipment, tools and incidentals and for doing all the work involved in furnishing and installing traffic loops, complete in place, including lead-in cables, home-runs and functionality testing of new loop systems as described herein and as directed by the Engineer.

## **21.00 Butterfield Boulevard Street Monuments**

### **General**

Monument installation shall be installed on Butterfield Boulevard/Watsonville Road between Tennant Avenue & Calle Sueno and shall conform to the Provisions of the 2007 City of Morgan Hill Design Standards and Standard Details for Construction (Detail A-31).

### **Materials**

Concrete shall be minor concrete with 1 inch max aggregate. Frame and cover shall be Christy G5 or approved equal. Bronze survey marker's (disk) to be supplied by the surveyor.

### **Construction**

Surveyor to set reference points for monuments. Locate the survey monuments so that the point referenced falls within 1/2 inch from the center of the disk when the disk is placed in the center of the monument. Survey monuments must be cast in place in neat holes without the use of forms, unless forms are shown. Covers must fit into the frames without rocking.

Place the survey marker in the survey monument before the concrete reaches its initial set. Press firmly to embed the disk in the concrete. Fill the resulting space around the monument with base and surface material. Remove and dispose of excess material not used.

## **MEASURE AND PAYMENT**

Measurement of Bid Item “Street Monument” will be paid per each monument installed. The contract price paid per each “Street Monument” shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals and for doing all the work involved to install monuments per detail A-31, including; traffic control, excavation, concrete base & collar, Christy box/lid & cover, surface restoration, and backfill complete in place, as shown on the plans, and as specified in the City of Morgan Hill Standards and these Special Provisions.

## **22.00 FINAL CLEAN-UP**

Contractor shall clean-up each street location after the completion of all work and remove all debris/material generated during the course of construction. This includes street sweeping each street location in its entirety. Contractor shall also perform minor surface grading, as necessary or as directed by the Engineer or his designated representative, to ensure the smooth pavement transition with existing ADA ramps, driveway approaches, and other city streets.

## **MEASURE AND PAYMENT**

Full compensation for complying with the requirements of this section will be considered as included in the various items of work per location and no separate payment will be allowed therefore.

## **23.00 SUPPLEMENTAL WORK**

The work shall include any new or unforeseen work not specified for on the plans and specification. The lump sum dollar amount listed in the bid schedule will be included in each bidder's proposal. Supplemental work shall be performed only upon direct written authorization from the Project Engineer. Agreed price may be used as an alternate method of payment, if directed by the Project Engineer.



## WARRANTY BOND

City of Morgan Hill ("Owner") and \_\_\_\_\_ ("Contractor") have entered into a contract, dated \_\_\_\_\_, 20\_\_\_\_ ("Contract") for work on the 2015 Street Resurfacing Project ("Project"). The Contract is incorporated by reference into this Warranty Bond ("Bond").

1. **General.** Under this Bond, Contractor as principal and \_\_\_\_\_, its surety ("Surety"), are bound to Owner as Obligee in the maximum amount of \$\_\_\_\_\_ or 50% of the final Contract Price, whichever is greater ("Bond Sum").
2. **Warranty Period.** The Contract requires Contractor to guarantee its work and that of its Subcontractors on the Project, against defects in materials or workmanship which are discovered during the one year period commencing with recordation of the Notice of Completion (the "Warranty Period").
3. **Surety's Obligations.** If Contractor faithfully carries out and performs its guarantee under the Contract, and, on due notice from Owner, repairs and make good at its sole expense any and all defects in materials and workmanship in the Project which are discovered during the Warranty Period, or if Contractor promptly reimburses Owner for all loss and damage that Owner sustains because of Contractor's failure to makes such repairs in accordance with the Contract requirements, then Surety's obligations under this Bond will be null and void. Otherwise, Surety's obligations will remain in full force and effect.
4. **Waiver.** Surety waives the provisions of Civil Code Sections 2819 and 2845.
5. **Notice.** Any notice to Surety may be given in the manner specified in the Contract and delivered or transmitted to Surety as follows:  
  
Attn: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_
6. **Law and Venue.** This Bond will be governed by California law, and any dispute pursuant to this Bond will be venued in the Superior Court of Santa Clara County, and no other place. Surety will be responsible for Owner's

attorneys' fees and costs in any action to enforce the provisions of this Bond.

**7. Effective Date; Execution.** This Bond is entered into and is effective on \_\_\_\_\_, 20\_\_\_\_\_.

SURETY:

\_\_\_\_\_  
Principal Principal

By: \_\_\_\_\_  
Surety

By: \_\_\_\_\_  
Attorney-in-Fact

By: \_\_\_\_\_  
California Resident Agent

By: \_\_\_\_\_  
Non-resident Agent – Attorney-in-Fact

(Attach Acknowledgment with Notary Seal and Power of Attorney)